1
341.41
Nur
1663

00001663

00001663

Digitized with financial assistance from
Shri Brihad Bhartiya Samaj
on 20 February, 2020

TRIAL

OF

THE MAJOR WAR CRIMINALS

BEFORE

THE INTERNATIONAL MILITARY TRIBUNAL

NUREMBERG

14 NOVEMBER 1945 — 1 OCTOBER 1946

PUBLISHED AT NUREMBERG, GERMANY

1947

This volume is published in accordance with the direction of the International Military Tribunal by the Secretariat of the Tribunal, under the jurisdiction of the Allied Control Authority for Germany.

VOLUME I

OFFICIAL TEXT

IN THE

ENGLISH LANGUAGE

OFFICIAL DOCUMENTS

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, RUDOLF HESS, JOACHIM VON RIBBENTROP, ROBERT LEY, WILHELM KEITEL, ERNST KALTENBRUNNER, ALFRED ROSENBERG, HANS FRANK, WILHELM FRICK, JULIUS STREICHER, WALTER FUNK, HJALMAR SCHACHT, GUSTAV KRUPP VON BOHLEN UND HALBACH, KARL DÖNITZ, ERICH RAEDER, BALDUR VON SCHIRACH, FRITZ SAUCKEL, ALFRED JODL, MARTIN BORMANN, FRANZ VON PAPEN, ARTHUR SEYSS-INQUART, ALBERT SPEER, CONSTANTIN VON NEURATH, and HANS FRITZSCHE, Individually and as Members of Any of the Following Groups or Organizations to which They Respectively Belonged, Namely: DIE REICHS-REGIERUNG (REICH CABINET); DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (LEADERSHIP CORPS OF THE NAZI PARTY); DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITER-PARTEI (commonly known as the "SS") and including DER SICHERHEITSDIENST (commonly known as the "SD"); DIE GEHEIME STAATSPOLIZEI (SECRET STATE POLICE, commonly known as the "GESTAPO"); DIE STURMABTEILUNGEN DER NSDAP (commonly known as the "SA"); and the GENERAL STAFF and HIGH COMMAND of the GERMAN ARMED FORCES, all as defined in Appendix B of the Indictment,

Defendants.

PREFACE

Recognizing the importance of establishing for history an authentic text of the Trial of major German war criminals, the International Military Tribunal directed the publication of the Record of the Trial. The proceedings are published in English, French, Russian, and German, the four languages used throughout the hearings. The documents admitted in evidence are printed only in their original language.

The first volume contains basic, official, pre-trial documents together with the Tribunal's judgment and sentence of the defendants. In subsequent volumes the Trial proceedings are published in full from the preliminary session of 14 November 1945 to the closing session of 1 October 1946. They are followed by an index volume. Documents admitted in evidence conclude the publication.

The proceedings of the International Military Tribunal were recorded in full by stenographic notes, and an electric sound recording of all oral proceedings was maintained.

Reviewing sections have verified in the four languages citations, statistics, and other data, and have eliminated obvious grammatical errors and verbal irrelevancies. Finally, corrected texts have been certified for publication by Colonel Ray for the United States, Mr. Mercer for the United Kingdom, Mr. Fuster for France, and Major Poltorak for the Union of Soviet Socialist Republics.

CONTENTS

Members and alternate members of the Tribunal 1

Officials of the General Secretariat 2

Prosecution Counsel 3

Individual defendants and Defense Counsel 6

Establishment of the Tribunal

London Agreement of 8 August 1945 8

Charter of the International Military Tribunal 10

Protocol rectifying discrepancy in text of the Charter 17

Rules of Procedure 19

Minutes of the opening session of the Tribunal, at Berlin, 18 October 1945 24

Indictment

Text of Indictment 27

Motion of the Prosecution for correcting discrepancies in the Indictment 93

Pleas of individual defendants 94

Letter of reservation by the United States Prosecutor in regard to wording of the Indictment 95

Notice

Order of the Tribunal regarding notice to individual defendants . . 96

Order of the Tribunal regarding notice to members of groups and organizations 97

Order of the Tribunal regarding notice to Defendant Bormann . . 102

Service

Certificates of compliance with orders of the Tribunal regarding notice to members of groups and organizations and to Defendant Bormann 104

Certificates of service on individual defendants 117

Certificate of service on Defendant Gustav Krupp von Bohlen and medical certificates attached thereto 118

Acknowledgment of service by Defendant Fritzsche and Defendant Raeder 123

Motion on behalf of Defendant Gustav Krupp von Bohlen for postponement of the Trial as to him, and action taken thereon

Motion, and medical certificates attached thereto 124
Report of medical commission appointed to examine Defendant Gustav Krupp von Bohlen 127
Answer of the United States Prosecution to the motion 134
Memorandum of the British Prosecution on the motion 139
Memorandum of the French Prosecution on the motion 141
Supplemental memorandum of the French Prosecution 142
Order of the Tribunal granting postponement of proceedings against Gustav Krupp von Bohlen 143
Supplementary statement of the United States Prosecution 144
Motion of the Committee of Chief Prosecutors to amend the Indictment by adding the name of Alfried Krupp von Bohlen as a defendant 145
Order of the Tribunal rejecting the motion to amend the Indictment 146
Memorandum of the French Prosecution on the order of the Tribunal rejecting the motion to amend the Indictment 147

Motion on behalf of Defendant Streicher for postponement of the Trial as to him, and action taken thereon

Motion on behalf of Defendant Streicher 148
Memorandum of the United States Prosecution on the motion . . . 149
Memorandum of the British Prosecution on the motion 150
Motion of the Soviet Prosecution for a psychiatric examination of Defendant Streicher 152
Order of the Tribunal regarding a psychiatric examination of Defendant Streicher 153
Report of examination of Defendant Streicher 154

Medical examination of Defendant Hess

Motion on behalf of Defendant Hess for an examination by a neutral expert 155
Order of the Tribunal rejecting the motion, and designating a commission to examine Defendant Hess 157
Report of commission to examine Defendant Hess 159
Report of prison psychologist 166

Motion adopted by all Defense Counsel, 19 November 1945 168

Judgment 171

Dissenting opinion of the Soviet Judge 342

Sentences 365

MEMBERS AND ALTERNATE MEMBERS OF THE TRIBUNAL

LORD JUSTICE LAWRENCE, Member for the United Kingdom of Great Britain and Northern Ireland, President

MR. JUSTICE BIRKETT, Alternate Member

MR. FRANCIS BIDDLE, Member for the United States of America

JUDGE JOHN J. PARKER, Alternate Member

M. LE PROFESSEUR DONNEDIEU DE VABRES, Member for the French Republic

M. LE CONSEILLER R. FALCO, Alternate Member

MAJOR GENERAL I. T. NIKITCHENKO, Member for the Union of Soviet Socialist Republics

LIEUTENANT COLONEL A. F. VOLCHKOV, Alternate Member

OFFICIALS OF THE GENERAL SECRETARIAT

BRIGADIER GENERAL
WM. L. MITCHELL ..... General Secretary (from 6 November 1945 to 24 June 1946)

COLONEL JOHN E. RAY ..... General Secretary (from 24 June 1946)

MR. HAROLD B. WILLEY ..... General Secretary (to 6 November 1945)
American Secretary (to 11 July 1946)

MR. WALTER GILKYSON ..... American Secretary (from 16 July 1946)

MR. IAN D. McILWRAITH ..... British Secretary

MAJOR A. POLTORAK ..... Soviet Secretary

MR. A. MARTIN-HAVARD ..... French Secretary

COLONEL CHARLES W. MAYS .... Marshal (to 26 June 1946)

LIEUTENANT COLONEL JAMES
R. GIFFORD ..... Marshal (from 26 June 1946)

COLONEL LEON DOSTERT ..... Chief of Interpreters
(From the Office of U.S. Chief of Counsel) (to 17 April 1946)

COMMANDER ALFRED STEER,
U.S.N.R. ..... Chief of Interpreters
(From the Office of U.S. Chief of Counsel) (from 18 April 1946)

MAJOR JACK L. BAILEY ..... Administrative Section

CAPTAIN D. P. SULLIVAN ..... Witness Notification and Procurement

LIEUTENANT COLONEL
A. M. S. NEAVE, B.A.O.R. ..... Applications and Motions Section

LIEUTENANT COMMANDER
ALBERT E. SCHRADER, U.S.N.R. Defendants' Information Center

MR. BERNARD REYMON ..... Custodian of Documents and Records

LIEUTENANT COLONEL
LAWRENCE D. EGBERT ..... Editor of the Record

CAPTAIN SIGMUND ROTH ..... Director of Printing

PROSECUTION COUNSEL*

United States of America

CHIEF OF COUNSEL:

Mr. Justice Robert H. Jackson

EXECUTIVE TRIAL COUNSEL:

Colonel Robert G. Storey

Mr. Thomas J. Dodd

ASSOCIATE TRIAL COUNSEL:

Mr. Sidney S. Alderman

Brigadier General Telford Taylor

Colonel John Harlan Amen

Mr. Ralph G. Albrecht

ASSISTANT TRIAL COUNSEL:

Colonel Leonard Wheeler, Jr.

Lieutenant Colonel William H. Baldwin

Lieutenant Colonel Smith W. Brockhart, Jr.

Commander James Britt Donovan, U.S.N.R.

Major Frank B. Wallis

Major William F. Walsh

Major Warren F. Farr

Captain Samuel Harris

Captain Drexel A. Sprecher

Lieutenant Commander Whitney R. Harris, U.S.N.R.

Lieutenant Thomas F. Lambert, Jr., U.S.N.R.

Lieutenant Henry K. Atherton

Lieutenant Brady O. Bryson, U.S.N.R.

Lieutenant (j. g.) Bernard D. Meltzer, U.S.N.R.

Dr. Robert M. Kempner

Mr. Walter W. Brudno

*Only those members of the Prosecution Counsel who spoke before the Tribunal are listed.

United Kingdom of Great Britain and Northern Ireland

CHIEF PROSECUTOR:

H. M. Attorney-General, Sir Hartley Shawcross, K.C., M.P.

DEPUTY CHIEF PROSECUTOR:

The Rt. Hon. Sir David Maxwell-Fyfe, P.C., K.C., M.P.

LEADING COUNSEL:

Mr. G. D. Roberts, K.C., O.B.E.

JUNIOR COUNSEL:

Lieutenant Colonel J. M. G. Griffith-Jones, M.C., Barrister-at-Law

Colonel H. J. Phillimore, O.B.E., Barrister-at-Law

Major F. Elwyn Jones, M.P., Barrister-at-Law

Major J. Harcourt Barrington, Barrister-at-Law

Union of Soviet Socialist Republics

CHIEF PROSECUTOR:

General R. A. Rudenko

DEPUTY CHIEF PROSECUTOR:

Colonel Y. V. Pokrovsky

ASSISTANT PROSECUTORS:

State Counsellor of Justice of the 2nd Class, L. R. Shenin

State Counsellor of Justice of the 2nd Class, M. Y. Raginsky

State Counsellor of Justice of the 3rd Class, N. D. Zorya

Chief Counsellor of Justice, L. N. Smirnov

Colonel D. S. Karev

Lieutenant Colonel J. A. Ozol

Captain V. V. Kuchin

French Republic

CHIEF PROSECUTOR:

M. François de Menthon

M. Auguste Champetier de Ribes

DEPUTY CHIEF PROSECUTORS:

M. Charles Dubost

M. Edgar Faure

ASSISTANT PROSECUTORS (Chiefs of Sections):

M. Pierre Mounier

M. Charles Gerthoffer

M. Delphin Debenest

ASSISTANT PROSECUTORS:

M. Jacques B. Herzog

M. Henry Delpech

M. Serge Fuster

M. Constant Quatre

M. Henri Monneray

DEFENDANTS AND DEFENSE COUNSEL

INDIVIDUAL DEFENDANTS:	COUNSEL:
GÖRING, HERMANN WILHELM	Dr. Otto Stahmer
HESS, RUDOLF	Dr. Günther von Rohrscheidt (to 5 February 1946)
	Dr. Alfred Seidl (from 5 February 1946)
VON RIBBENTROP, JOACHIM	Dr. Fritz Sauter (to 5 January 1946)
	Dr. Martin Horn (from 5 January 1946)
LEY, ROBERT *	
KEITEL, WILHELM	Dr. Otto Nelte
KALTENBRUNNER, ERNST	Dr. Kurt Kauffmann
ROSENBERG, ALFRED	Dr. Alfred Thoma
FRANK, HANS	Dr. Alfred Seidl
FRICK, WILHELM	Dr. Otto Pannenbecker
STREICHER, JULIUS	Dr. Hanns Marx
FUNK, WALTER	Dr. Fritz Sauter
SCHACHT, HJALMAR	Dr. Rudolf Dix
	Professor Dr. Herbert Kraus, Associate **
DÖNITZ, KARL	Flottenrichter Otto Kranzbuehler
RAEDER, ERICH	Dr. Walter Siemers
VON SCHIRACH, BALDUR	Dr. Fritz Sauter
SAUCKEL, FRITZ	Dr. Robert Servatius
JODL, ALFRED	Professor Dr. Franz Exner
	Professor Dr. Hermann Jahreiss, Associate **
BORMANN, MARTIN *	Dr. Friedrich Bergold
VON PAPEN, FRANZ	Dr. Egon Kubuschok
SEYSS-INQUART, ARTHUR	Dr. Gustav Steinbauer
SPEER, ALBERT	Dr. Hans Flächsner
VON NEURATH, CONSTANTIN	Dr. Otto Freiherr von Lüdinghausen
FRITZSCHE, HANS	Dr. Heinz Fritz
	Dr. Alfred Schilf, Associate **
KRUPP VON BOHLEN UND HALBACH, GUSTAV *	Dr. Theodor Klefisch (to 15 November 1945)
	Dr. Walter Ballas, Associate ** (to 15 November 1945)

* All individual defendants named in the Indictment appeared before the Tribunal except: Robert Ley, who committed suicide 25 October 1945; Gustav Krupp von Bohlen und Halbach, owing to serious illness; and Martin Bormann, who was not in custody and whom the Tribunal decided to try in absentia.

** Only Associates who spoke before the Tribunal are listed.

GROUPS AND ORGANIZATIONS:	COUNSEL:
REICH CABINET	Dr. Egon Kubuschok
LEADERSHIP CORPS OF NAZI PARTY	Dr. Robert Servatius
SS and SD	Ludwig Babel, Counsel for SS and SD (to 18 March 1946), Counsel for SS (to 1 June 1946), Co-counsel for SS (to 27 August 1946) Horst Pelckmann, Co-counsel for SS (from 2 March 1946), Counsel for SS (from 1 June 1946) Dr. Carl Haensel, Associate ** to Dr. H. Pelckmann (from 1 April 1946) Dr. Hans Gawlik, Counsel for SD (from 18 March 1946)
SA	Georg Boehm Dr. Martin Loeffler
GESTAPO	Dr. Rudolf Merkel
GENERAL STAFF and HIGH COMMAND of the GERMAN ARMED FORCES	Professor Dr. Franz Exner (to 27 January 1946) Dr. Hans Laternser (from 27 January 1946)

** Only Associates who spoke before the Tribunal are listed.

LONDON AGREEMENT OF 8 AUGUST 1945

Agreement by the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the Union of Soviet Socialist Republics for the Prosecution and Punishment of the Major War Criminals of the European Axis.

WHEREAS the United Nations have from time to time made declarations of their intention that war criminals shall be brought to justice;

AND WHEREAS the Moscow Declaration of 30 October 1943 on German atrocities in Occupied Europe stated that those German officers and men and members of the Nazi Party who have been responsible for or have taken a consenting part in atrocities and crimes will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of these liberated countries and of the free Governments that will be created therein;

AND WHEREAS this Declaration was stated to be without prejudice to the case of major criminals whose offenses have no particular geographic location and who will be punished by the joint decision of the Governments of the Allies;

NOW THEREFORE the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the Union of Soviet Socialist Republics (hereinafter called "the Signatories") acting in the interests of all the United Nations and by their representatives duly authorized thereto have concluded this Agreement.

Article 1. There shall be established after consultation with the Control Council for Germany an International Military Tribunal for the trial of war criminals whose offenses have no particular geographical location whether they be accused individually or in their capacity as members of organizations or groups or in both capacities.

Article 2. The constitution, jurisdiction, and functions of the International Military Tribunal shall be those set out in the Charter annexed to this Agreement, which Charter shall form an integral part of this Agreement.

Article 3. Each of the Signatories shall take the necessary steps to make available for the investigation of the charges and trial the major war criminals detained by them who are to be tried by the

International Military Tribunal. The Signatories shall also use their best endeavors to make available for investigation of the charges against and the trial before the International Military Tribunal such of the major war criminals as are not in the territories of any of the Signatories.

Article 4. Nothing in this Agreement shall prejudice the provisions established by the Moscow Declaration concerning the return of war criminals to the countries where they committed their crimes.

Article 5. Any Government of the United Nations may adhere to this Agreement by notice given through the diplomatic channel to the Government of the United Kingdom, who shall inform the other signatory and adhering Governments of each such adherence.*

Article 6. Nothing in this Agreement shall prejudice the jurisdiction or the powers of any national or occupation court established or to be established in any Allied territory or in Germany for the trial of war criminals.

Article 7. This Agreement shall come into force on the day of signature and shall remain in force for the period of one year and shall continue thereafter, subject to the right of any Signatory to give, through the diplomatic channel, one month's notice of intention to terminate it. Such termination shall not prejudice any proceedings already taken or any findings already made in pursuance of this Agreement.

IN WITNESS WHEREOF the Undersigned have signed the present Agreement.

DONE in quadruplicate in London this 8th day of August 1945 each in English, French, and Russian, and each text to have equal authenticity.

For the Government of the United States of America
/s/ ROBERT H. JACKSON

For the Provisional Government of the French Republic
/s/ ROBERT FALCO

For the Government of the United Kingdom of Great Britain and Northern Ireland
/s/ JOWITT

For the Government of the Union of Soviet Socialist Republics
/s/ I. NIKITCHENKO
/s/ A. TRAININ

In accordance with Article 5, the following Governments of the United Nations have expressed their adherence to the Agreement: Greece, Denmark, Yugoslavia, the Netherlands, Czechoslovakia, Poland, Belgium, Ethiopia, Australia, Honduras, Norway, Panama, Luxembourg, Haiti, New Zealand, India, Venezuela, Uruguay, and Paraguay.

CHARTER OF THE INTERNATIONAL MILITARY TRIBUNAL

I. CONSTITUTION OF THE INTERNATIONAL MILITARY TRIBUNAL

Article 1. In pursuance of the Agreement signed on the 8th day of August 1945 by the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the Union of Soviet Socialist Republics, there shall be established an International Military Tribunal (hereinafter called "the Tribunal") for the just and prompt trial and punishment of the major war criminals of the European Axis.

Article 2. The Tribunal shall consist of four members, each with an alternate. One member and one alternate shall be appointed by each of the Signatories. The alternates shall, so far as they are able, be present at all sessions of the Tribunal. In case of illness of any member of the Tribunal or his incapacity for some other reason to fulfill his functions, his alternate shall take his place.

Article 3. Neither the Tribunal, its members nor their alternates can be challenged by the Prosecution, or by the defendants or their counsel. Each Signatory may replace its member of the Tribunal or his alternate for reasons of health or for other good reasons, except that no replacement may take place during a Trial, other than by an alternate.

Article 4.

(a) The presence of all four members of the Tribunal or the alternate for any absent member shall be necessary to constitute the quorum.

(b) The members of the Tribunal shall, before any trial begins, agree among themselves upon the selection from their number of a President, and the President shall hold office during that trial, or as may otherwise be agreed by a vote of not less than three members. The principle of rotation of presidency for successive trials is agreed. If, however, a session of the Tribunal takes place on the territory of one of the four Signatories, the representative of that Signatory on the Tribunal shall preside.

(c) Save as aforesaid the Tribunal shall take decisions by a majority vote and in case the votes are evenly divided, the vote of the President shall be decisive: provided always that convictions and sentences shall only be imposed by affirmative votes of at least three members of the Tribunal.

Article 5. In case of need and depending on the number of the matters to be tried, other Tribunals may be set up; and the establishment, functions, and procedure of each Tribunal shall be identical, and shall be governed by this Charter.

II. JURISDICTION AND GENERAL PRINCIPLES

Article 6. The Tribunal established by the Agreement referred to in Article 1 hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organizations, committed any of the following crimes.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

(a) *CRIMES AGAINST PEACE:* namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a Common Plan or Conspiracy for the accomplishment of any of the foregoing;

(b) *WAR CRIMES:* namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity;

(c) *CRIMES AGAINST HUMANITY:* namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war,* or persecutions on political, racial, or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of domestic law of the country where perpetrated.

Leaders, organizers, instigators, and accomplices participating in the formulation or execution of a Common Plan or Conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

* Comma substituted in place of semicolon by Protocol of 6 October 1945.

Article 7. The official position of defendants, whether as Heads of State or responsible officials in Government departments, shall not be considered as freeing them from responsibility or mitigating punishment.

Article 8. The fact that the defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determine that justice so requires.

Article 9. At the trial of any individual member of any group or organization the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organization of which the individual was a member was a criminal organization.

After receipt of the Indictment the Tribunal shall give such notice as it thinks fit that the Prosecution intends to ask the Tribunal to make such declaration and any member of the organization will be entitled to apply to the Tribunal for leave to be heard by the Tribunal upon the question of the criminal character of the organization. The Tribunal shall have power to allow or reject the application. If the application is allowed, the Tribunal may direct in what manner the applicants shall be represented and heard.

Article 10. In cases where a group or organization is declared criminal by the Tribunal, the competent national authority of any Signatory shall have the right to bring individuals to trial for membership therein before national, military, or occupation courts. In any such case the criminal nature of the group or organization is considered proved and shall not be questioned.

Article 11. Any person convicted by the Tribunal may be charged before a national, military, or occupation court, referred to in Article 10 of this Charter, with a crime other than of membership in a criminal group or organization and such court may, after convicting him, impose upon him punishment independent of and additional to the punishment imposed by the Tribunal for participation in the criminal activities of such group or organization.

Article 12. The Tribunal shall have the right to take proceedings against a person charged with crimes set out in Article 6 of this Charter in his absence, if he has not been found or if the Tribunal, for any reason, finds it necessary, in the interests of justice, to conduct the hearing in his absence.

Article 13. The Tribunal shall draw up rules for its procedure. These rules shall not be inconsistent with the provisions of this Charter.

III. COMMITTEE FOR THE INVESTIGATION AND PROSECUTION OF MAJOR WAR CRIMINALS

Article 14. Each Signatory shall appoint a Chief Prosecutor for the investigation of the charges against and the prosecution of major war criminals.

The Chief Prosecutors shall act as a committee for the following purposes:

(a) to agree upon a plan of the individual work of each of the Chief Prosecutors and his staff,

(b) to settle the final designation of major war criminals to be tried by the Tribunal,

(c) to approve the Indictment and the documents to be submitted therewith,

(d) to lodge the Indictment and the accompanying documents with the Tribunal,

(e) to draw up and recommend to the Tribunal for its approval draft rules of procedure, contemplated by Article 13 of this Charter. The Tribunal shall have power to accept, with or without amendments, or to reject, the rules so recommended.

The Committee shall act in all the above matters by a majority vote and shall appoint a Chairman as may be convenient and in accordance with the principle of rotation: provided that if there is an equal division of vote concerning the designation of a defendant to be tried by the Tribunal, or the crimes with which he shall be charged, that proposal will be adopted which was made by the party which proposed that the particular defendant be tried, or the particular charges be preferred against him.

Article 15. The Chief Prosecutors shall individually, and acting in collaboration with one another, also undertake the following duties:

(a) investigation, collection, and production before or at the Trial of all necessary evidence,

(b) the preparation of the Indictment for approval by the Committee in accordance with paragraph (c) of Article 14 hereof,

(c) the preliminary examination of all necessary witnesses and of the defendants,

(d) to act as prosecutor at the Trial,

(e) to appoint representatives to carry out such duties as may be assigned to them,

(f) to undertake such other matters as may appear necessary to them for the purposes of the preparation for and conduct of the Trial.

It is understood that no witness or defendant detained by any Signatory shall be taken out of the possession of that Signatory without its assent.

IV. FAIR TRIAL FOR DEFENDANTS

Article 16. In order to ensure fair trial for the defendants, the following procedure shall be followed:

(a) The Indictment shall include full particulars specifying in detail the charges against the defendants. A copy of the Indictment and of all the documents lodged with the Indictment, translated into a language which he understands, shall be furnished to the defendant at a reasonable time before the Trial.

(b) During any preliminary examination or trial of a defendant he shall have the right to give any explanation relevant to the charges made against him.

(c) A preliminary examination of a defendant and his trial shall be conducted in, or translated into, a language which the defendant understands.

(d) A defendant shall have the right to conduct his own defense before the Tribunal or to have the assistance of counsel.

(e) A defendant shall have the right through himself or through his counsel to present evidence at the Trial in support of his defense, and to cross-examine any witness called by the Prosecution.

V. POWERS OF THE TRIBUNAL AND CONDUCT OF THE TRIAL

Article 17. The Tribunal shall have the power:

(a) to summon witnesses to the Trial and to require their attendance and testimony and to put questions to them,

(b) to interrogate any defendant,

(c) to require the production of documents and other evidentiary material,

(d) to administer oaths to witnesses,

(e) to appoint officers for the carrying out of any task designated by the Tribunal including the power to have evidence taken on commission.

Article 18. The Tribunal shall:

(a) confine the Trial strictly to an expeditious hearing of the issues raised by the charges,

(b) take strict measures to prevent any action which will cause unreasonable delay, and rule out irrelevant issues and statements of any kind whatsoever,

(c) deal summarily with any contumacy, imposing appropriate punishment, including exclusion of any defendant or his counsel from some or all further proceedings, but without prejudice to the determination of the charges.

Article 19. The Tribunal shall not be bound by technical rules of evidence. It shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and shall admit any evidence which it deems to have probative value.

Article 20. The Tribunal may require to be informed of the nature of any evidence before it is offered so that it may rule upon the relevance thereof.

Article 21. The Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof. It shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes, and the records and findings of military or other Tribunals of any of the United Nations.

Article 22. The permanent seat of the Tribunal shall be in Berlin. The first meetings of the members of the Tribunal and of the Chief Prosecutors shall be held at Berlin in a place to be designated by the Control Council for Germany. The first trial shall be held at Nuremberg, and any subsequent trials shall be held at such places as the Tribunal may decide.

Article 23. One or more of the Chief Prosecutors may take part in the prosecution at each trial. The function of any Chief Prosecutor may be discharged by him personally, or by any person or persons authorized by him.

The function of counsel for a defendant may be discharged at the defendant's request by any counsel professionally qualified to conduct cases before the Courts of his own country, or by any other person who may be specially authorized thereto by the Tribunal.

Article 24. The proceedings at the Trial shall take the following course:

(a) The Indictment shall be read in court.

(b) The Tribunal shall ask each defendant whether he pleads "guilty" or "not guilty".

(c) The Prosecution shall make an opening statement.

(d) The Tribunal shall ask the Prosecution and the Defense what evidence (if any) they wish to submit to the Tribunal, and the Tribunal shall rule upon the admissibility of any such evidence.

(e) The witnesses for the Prosecution shall be examined and after that the witnesses for the Defense. Thereafter such rebutting evidence as may be held by the Tribunal to be admissible shall be called by either the Prosecution or the Defense.

(f) The Tribunal may put any question to any witness and to any defendant, at any time.

(g) The Prosecution and the Defense shall interrogate and may cross-examine any witnesses and any defendant who gives testimony.

(h) The Defense shall address the Court.

(i) The Prosecution shall address the Court.

(j) Each Defendant may make a statement to the Tribunal.

(k) The Tribunal shall deliver judgment and pronounce sentence.

Article 25. All official documents shall be produced, and all court proceedings conducted, in English, French, and Russian, and in the language of the defendant. So much of the record and of the proceedings may also be translated into the language of any country in which the Tribunal is sitting, as the Tribunal considers desirable in the interests of justice and public opinion.

VI. JUDGMENT AND SENTENCE

Article 26. The judgment of the Tribunal as to the guilt or the innocence of any defendant shall give the reasons on which it is based, and shall be final and not subject to review.

Article 27. The Tribunal shall have the right to impose upon a defendant on conviction, death or such other punishment as shall be determined by it to be just.

Article 28. In addition to any punishment imposed by it, the Tribunal shall have the right to deprive the convicted person of any stolen property and order its delivery to the Control Council for Germany.

Article 29. In case of guilt, sentences shall be carried out in accordance with the orders of the Control Council for Germany, which may at any time reduce or otherwise alter the sentences, but may not increase the severity thereof. If the Control Council for Germany, after any defendant has been convicted and sentenced, discovers fresh evidence which, in its opinion, would found a fresh charge against him, the Council shall report accordingly to the Committee established under Article 14 hereof, for such action as they may consider proper, having regard to the interests of justice.

VII. EXPENSES

Article 30. The expenses of the Tribunal and of the trials, shall be charged by the Signatories against the funds allotted for maintenance of the Control Council for Germany.

PROTOCOL RECTIFYING DISCREPANCY IN TEXT OF CHARTER

Whereas an Agreement and Charter regarding the Prosecution of War Criminals was signed in London on the 8th August 1945, in the English, French, and Russian languages;

And whereas a discrepancy has been found to exist between the originals of Article 6, paragraph (c), of the Charter in the Russian language, on the one hand, and the originals in the English and French languages, on the other, to wit, the semicolon in Article 6, paragraph (c), of the Charter between the words "war" and "or", as carried in the English and French texts, is a comma in the Russian text;

And whereas it is desired to rectify this discrepancy:

NOW, THEREFORE, the undersigned, signatories of the said Agreement on behalf of their respective Governments, duly authorized thereto, have agreed that Article 6, paragraph (c), of the Charter in the Russian text is correct, and that the meaning and intention of the Agreement and Charter require that the said semicolon in the English text should be changed to a comma, and that the French text should be amended to read as follows:

c) *LES CRIMES CONTRE L'HUMANITE:* c'est à dire l'assassinat, l'extermination, la réduction en esclavage, la déportation, et tout autre acte inhumain commis contre toutes populations civiles, avant ou pendant la guerre, ou bien les persécutions pour des motifs politiques, raciaux, ou réligieux, lorsque ces actes ou persécutions, qu'ils aient constitué ou non une violation du droit interne du pays ou ils ont été perpetrés, ont été commis à la suite de tout crime rentrant dans la competence du Tribunal, ou en liaison avec ce crime.

IN WITNESS WHEREOF the Undersigned have signed the present Protocol.

DONE in quadruplicate in Berlin this 6th day of October, 1945, each in English, French, and Russian, and each text to have equal authenticity.

For the Government of the United States of America

/s/ ROBERT H. JACKSON

For the Provisional Government of the French Republic

/s/ FRANÇOIS de MENTHON

For the Government of the United Kingdom of Great Britain and Northern Ireland

/s/ HARTLEY SHAWCROSS

For the Government of the Union of Soviet Socialist Republics

/s/ R. RUDENKO

RULES OF PROCEDURE

(Adopted 29 October 1945)

Rule 1. *Authority to Promulgate Rules.*

The present Rules of Procedure of the International Military Tribunal for the trial of the major war criminals (hereinafter called "the Tribunal") as established by the Charter of the Tribunal dated 8 August 1945 (hereinafter called "the Charter") are hereby promulgated by the Tribunal in accordance with the provisions of Article 13 of the Charter.

Rule 2. *Notice to Defendants and Right to Assistance of Counsel.*

(a) Each individual defendant in custody shall receive not less than 30 days before trial a copy, translated into a language which he understands, (1) of the Indictment, (2) of the Charter, (3) of any other documents lodged with the Indictment, and (4) of a statement of his right to the assistance of counsel as set forth in sub-paragraph (d) of this Rule, together with a list of counsel. He shall also receive copies of such rules of procedure as may be adopted by the Tribunal from time to time.

(b) Any individual defendant not in custody shall be informed of the indictment against him and of his right to receive the documents specified in sub-paragraph (a) above, by notice in such form and manner as the Tribunal may prescribe.

(c) With respect to any group or organization as to which the Prosecution indicates its intention to request a finding of criminality by the Tribunal, notice shall be given by publication in such form and manner as the Tribunal may prescribe and such publication shall include a declaration by the Tribunal that all members of the named groups or organizations are entitled to apply to the Tribunal for leave to be heard in accordance with the provisions of Article 9 of the Charter. Nothing herein contained shall be construed to confer immunity of any kind upon such members of said groups or organizations as may appear in answer to the said declaration.

(d) Each defendant has the right to conduct his own defense or to have the assistance of counsel. Application for particular counsel shall be filed at once with the General Secretary of the Tribunal at the Palace of Justice, Nuremberg, Germany. The Tribunal will designate counsel for any defendant who fails to apply for particular counsel or, where particular counsel requested is not within ten (10) days to be found or available, unless the defendant elects in writing to conduct his own defense. If a defendant has requested particular counsel who is not immediately to be found or available, such counsel or a counsel of substitute choice may, if found and available before trial, be associated with or substituted for counsel

designated by the Tribunal, provided that (1) only one counsel shall be permitted to appear at the trial for any defendant, unless by special permission of the Tribunal, and (2) no delay of trial will be allowed for making such substitution or association.

Rule 3. *Service of Additional Documents.*

If, before the trial, the Chief Prosecutors offer amendments or additions to the Indictment, such amendments or additions, including any accompanying documents shall be lodged with the Tribunal and copies of the same, translated into a language which they each understand, shall be furnished to the defendants in custody as soon as practicable and notice given in accordance with Rule 2 (b) to those not in custody.

Rule 4. *Production of Evidence for the Defense.*

(a) The Defense may apply to the Tribunal for the production of witnesses or of documents by written application to the General Secretary of the Tribunal. The application shall state where the witness or document is thought to be located, together with a statement of their last known location. It shall also state the facts proposed to be proved by the witness or the document and the reasons why such facts are relevant to the Defense.

(b) If the witness or the document is not within the area controlled by the occupation authorities, the Tribunal may request the Signatory and adhering Governments to arrange for the production, if possible, of any such witnesses and any such documents as the Tribunal may deem necessary to proper presentation of the Defense.

(c) If the witness or the document is within the area controlled by the occupation authorities, the General Secretary shall, if the Tribunal is not in session, communicate the application to the Chief Prosecutors and, if they make no objection, the General Secretary shall issue a summons for the attendance of such witness or the production of such documents, informing the Tribunal of the action taken. If any Chief Prosecutor objects to the issuance of a summons, or if the Tribunal is in session, the General Secretary shall submit the application to the Tribunal, which shall decide whether or not the summons shall issue.

(d) A summons shall be served in such manner as may be provided by the appropriate occupation authority to ensure its enforcement and the General Secretary shall inform the Tribunal of the steps taken.

(e) Upon application to the General Secretary of the Tribunal, a defendant shall be furnished with a copy, translated into a language which he understands, of all documents referred to in the Indictment so far as they may be made available by the Chief

Prosecutors and shall be allowed to inspect copies of any such documents as are not so available.

Rule 5. *Order at the Trial.*

In conformity with the provisions of Article 18 of the Charter, and the disciplinary powers therein set out, the Tribunal, acting through its President, shall provide for the maintenance of order at the Trial. Any defendant or any other person may be excluded from open sessions of the Tribunal for failure to observe and respect the directives and dignity of the Tribunal.

Rule 6. *Oaths; Witnesses.*

(a) Before testifying before the Tribunal, each witness shall make such oath or declaration as is customary in his own country.

(b) Witnesses while not giving evidence shall not be present in court. The President of the Tribunal shall direct, as circumstances demand, that witnesses shall not confer among themselves before giving evidence.

Rule 7. *Applications and Motions before Trial and Rulings during the Trial.*

(a) All motions, applications or other requests addressed to the Tribunal prior to the commencement of trial shall be made in writing and filed with the General Secretary of the Tribunal at the Palace of Justice, Nuremberg, Germany.

(b) Any such motion, application or other request shall be communicated by the General Secretary of the Tribunal to the Chief Prosecutors and, if they make no objection, the President of the Tribunal may make the appropriate order on behalf of the Tribunal. If any Chief Prosecutor objects, the President may call a special session of the Tribunal for the determination of the question raised.

(c) The Tribunal, acting through its President, will rule in court upon all questions arising during the trial, such as questions as to admissibility of evidence offered during the trial, recesses, and motions; and before so ruling the Tribunal may, when necessary, order the closing or clearing of the Tribunal or take any other steps which to the Tribunal seem just.

Rule 8. *Secretariat of the Tribunal.*

(a) The Secretariat of the Tribunal shall be composed of a General Secretary, four Secretaries and their Assistants. The Tribunal shall appoint the General Secretary and each Member shall appoint one Secretary. The General Secretary shall appoint such clerks, interpreters, stenographers, ushers, and all such other persons as may be authorized by the Tribunal and each Secretary may appoint such assistants as may be authorized by the Member of the Tribunal by whom he was appointed.

(b) The General Secretary, in consultation with the Secretaries, shall organize and direct the work of the Secretariat, subject to the approval of the Tribunal in the event of a disagreement by any Secretary.

(c) The Secretariat shall receive all documents addressed to the Tribunal, maintain the records of the Tribunal, provide necessary clerical services to the Tribunal and its Members, and perform such other duties as may be designated by the Tribunal.

(d) Communications addressed to the Tribunal shall be delivered to the General Secretary.

Rule 9. *Record, Exhibits, and Documents.*

(a) A stenographic record shall be maintained of all oral proceedings. Exhibits will be suitably identified and marked with consecutive numbers. All exhibits and transcripts of the proceedings and all documents lodged with and produced to the Tribunal will be filed with the General Secretary of the Tribunal and will constitute part of the Record.

(b) The term "official documents" as used in Article 25 of the Charter includes the Indictment, rules, written motions, orders that are reduced to writing, findings, and judgments of the Tribunal. These shall be in the English, French, Russian, and German languages. Documentary evidence or exhibits may be received in the language of the document, but a translation thereof into German shall be made available to the defendants.

(c) All exhibits and transcripts of proceedings, all documents lodged with and produced to the Tribunal and all official acts and documents of the Tribunal may be certified by the General Secretary of the Tribunal to any Government or to any other tribunal or wherever it is appropriate that copies of such documents or representations as to such acts should be supplied upon a proper request.

Rule 10. *Withdrawal of Exhibits and Documents.*

In cases where original documents are submitted by the Prosecution or the Defense as evidence, and upon a showing (a) that because of historical interest or for any other reason one of the Governments signatory to the Four Power Agreement of 8 August 1945, or any other Government having received the consent of said four signatory Powers, desires to withdraw from the records of the Tribunal and preserve any particular original documents and (b) that no substantial injustice will result, the Tribunal shall permit photostatic copies of said original documents, certified by the General Secretary of the Tribunal, to be substituted for the originals in the records of the Court and shall deliver said original documents to the applicants.

Rule 11. *Effective Date and Powers of Amendment and Addition.*

These Rules shall take effect upon their approval by the Tribunal. Nothing herein contained shall be construed to prevent the Tribunal from, at any time, in the interest of fair and expeditious trials, departing from, amending, or adding to these Rules, either by general rules or special orders for particular cases, in such form and upon such notice as may appear just to the Tribunal.

MINUTES OF THE OPENING SESSION OF THE TRIBUNAL, AT BERLIN, 18 OCTOBER 1945

GENERAL NIKITCHENKO, President *

Present: All of the Members of the Tribunal and their Alternates.

The International Military Tribunal held its first public session in Berlin, as required by Article 22 of the Charter, in the Grand Conference Room of the Allied Control Authority Building at 10:30 a. m.

The President, General Nikitchenko, said:

"In pursuance of the Agreement by the Government of the Union of Soviet Socialist Republics, the Provisional Government of the French Republic, the Government of the United States of America, and the Government of the United Kingdom of Great Britain and Northern Ireland for the prosecution and punishment of the major war criminals of the European Axis dated at London, 8 August 1945, and of Article 22 of the Charter annexed thereto constituting this International Military Tribunal, this meeting is held at Berlin for the reception of the Indictment under the Agreement and Charter."

This statement was translated orally in French, English, and German.

The Members of the Tribunal and their Alternates then made the following declaration, each in his own language:

> "I solemnly declare that I will exercise all my powers and duties as a Member of the International Military Tribunal honorably, impartially, and conscientiously."

The President then declared the session opened.

The Chief British Prosecutor, Mr. Shawcross, introduced in succession the Soviet Chief Prosecutor, General Rudenko; the French Deputy Chief Prosecutor, M. Dubost; and a representative of the American Prosecutor, Mr. Shea. Each on being introduced made a brief statement, which was translated orally into the other languages, and lodged a copy of the Indictment, in his own language, with the President of the Tribunal.

The President said:

"An Indictment has now been lodged with the Tribunal by the Committee of the Chief Prosecutors setting out the charges made against the following defendants:

Hermann Wilhelm Göring, Rudolf Hess, Joachim von Ribbentrop, Robert Ley, Wilhelm Keitel, Ernst Kaltenbrunner, Alfred Rosenberg, Hans Frank, Wilhelm Frick, Julius Streicher, Walter

* General Nikitchenko was selected as President for the session at Berlin, and Lord Justice Lawrence was elected President of the Tribunal for the Trial in Nuremberg, in accordance with Article 4 (b) of the Charter.

Funk, Hjalmar Schacht, Gustav Krupp von Bohlen und Halbach, Karl Dönitz, Erich Raeder, Baldur von Schirach, Fritz Sauckel, Alfred Jodl, Martin Bormann, Franz von Papen, Arthur Seyss-Inquart, Albert Speer, Constantin von Neurath, and Hans Fritzsche.

"Copies of the Charter and of the Indictment and of its accompanying documents will be served upon the defendants in the German language immediately.

"Notices will also be served upon them in writing drawing their attention to Articles 16 and 23 of the Charter which provide that they may either conduct their own defense or be defended by any counsel professionally qualified to conduct cases before the courts of his own country or by any other person who may be specially authorized thereto by the Tribunal; and a special clerk of the Tribunal has been appointed to advise the defendants of their right and to take instructions from them personally as to their choice of counsel, and generally to see that their rights of defense are made known to them.

"If any defendant who desires to be represented by counsel is unable to secure the services of counsel the Tribunal will appoint counsel to defend him.

"The Tribunal has formulated Rules of Procedure, shortly to be published, relating to the production of witnesses and documents in order to see that the defendants have a fair trial with full opportunity to present their defense.

"The individual defendants in custody will be notified that they must be ready for Trial within 30 days after the service of the Indictment upon them. Promptly thereafter the Tribunal shall fix and announce the date of the Trial in Nuremberg to take place not less than 30 days after the service of the Indictment and the defendants shall be advised of such date as soon as it is fixed.

"It must be understood that the Tribunal which is directed by the Charter to secure an expeditious hearing of the issues raised by the charges will not permit any delay either in the preparation of the defense or of the Trial.

"Lord Justice Lawrence will preside at the Trial at Nuremberg.

"Notice will also be given under Article 9 of the Charter that the Prosecution intends to ask the Tribunal to declare that the following organizations or groups of which the defendants or some of them were members are criminal organizations, and any member of any such group or organization will be entitled to apply to the Tribunal for leave to be heard by the Tribunal upon the question of the criminal character of such group or organization. These organizations referred to are the following:

Die Reichsregierung (Reich Cabinet); Das Korps der Politischen Leiter der Nationalsozialistischen Deutschen Arbeiterpartei (Leadership Corps of the Nazi Party); Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the "SS") and including Der Sicherheitsdienst (commonly known as the "SD"); Die Geheime Staatspolizei (Secret State Police, commonly known as the "Gestapo"); Die Sturmabteilungen der NSDAP (commonly known as the "SA"); and the General Staff and High Command of the German Armed Forces.

"The Indictment having been duly lodged by the Prosecutors in conformity with the provisions of the Charter, it becomes the duty of the Tribunal to give the necessary directions for the publication of the text.

"The Tribunal would like to order its immediate publication but this is not possible inasmuch as the Indictment must be published simultaneously in Moscow, London, Washington, and Paris.

"This result may be achieved, as the Tribunal is informed, by permitting publication in the press of the Indictment not earlier than 8 p.m., G.M.T., i. e. 2000 hours today, Thursday, October 18th."

This statement was translated orally in French, English, and German.

The meeting adjourned at 11:25 a.m.

INDICTMENT *

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, AND THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, RUDOLF HESS, JOACHIM VON RIBBENTROP, ROBERT LEY, WILHELM KEITEL, ERNST KALTENBRUNNER, ALFRED ROSENBERG, HANS FRANK, WILHELM FRICK, JULIUS STREICHER, WALTER FUNK, HJALMAR SCHACHT, GUSTAV KRUPP VON BOHLEN UND HALBACH, KARL DÖNITZ, ERICH RAEDER, BALDUR VON SCHIRACH, FRITZ SAUCKEL, ALFRED JODL, MARTIN BORMANN, FRANZ VON PAPEN, ARTHUR SEYSS-INQUART, ALBERT SPEER, CONSTANTIN VON NEURATH, and HANS FRITZSCHE, Individually and as Members of Any of the Following Groups or Organizations to which They Respectively Belonged, Namely: DIE REICHS-REGIERUNG (REICH CABINET); DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (LEADERSHIP CORPS OF THE NAZI PARTY); DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (commonly known as the "SS") and including DER SICHERHEITSDIENST (commonly known as the "SD"); DIE GEHEIME STAATSPOLIZEI (SECRET STATE POLICE, commonly known as the "GESTAPO"); DIE STURM-ABTEILUNGEN DER NSDAP (commonly known as the "SA"); and the GENERAL STAFF and HIGH COMMAND of the GERMAN ARMED FORCES, all as defined in Appendix B,

Defendants.

* This text of the Indictment has been corrected in accordance with the Prosecution's motion of 4 June 1946 which was accepted by the Court 7 June 1946 to rectify certain discrepancies between the German text and the text in other languages.

I. The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics by the undersigned, Robert H. Jackson, François de Menthon, Hartley Shawcross, and R. A. Rudenko, duly appointed to represent their respective Governments in the investigation of the charges against and the prosecution of the major war criminals, pursuant to the Agreement of London dated 8 August 1945, and the Charter of this Tribunal annexed thereto, hereby accuse as guilty, in the respects hereinafter set forth, of Crimes against Peace, War Crimes, and Crimes against Humanity, and of a Common Plan or Conspiracy to commit those Crimes, all as defined in the Charter of the Tribunal, and accordingly name as defendants in this cause and as indicted on the counts hereinafter set out: HERMANN WILHELM GÖRING, RUDOLF HESS, JOACHIM VON RIBBENTROP, ROBERT LEY, WILHELM KEITEL, ERNST KALTENBRUNNER, ALFRED ROSENBERG, HANS FRANK, WILHELM FRICK, JULIUS STREICHER, WALTER FUNK, HJALMAR SCHACHT, GUSTAV KRUPP VON BOHLEN UND HALBACH, KARL DÖNITZ, ERICH RAEDER, BALDUR VON SCHIRACH, FRITZ SAUCKEL, ALFRED JODL, MARTIN BORMANN, FRANZ VON PAPEN, ARTHUR SEYSS-INQUART, ALBERT SPEER, CONSTANTIN VON NEURATH and HANS FRITZSCHE, individually and as members of any of the groups or organizations next hereinafter named.

II. The following are named as groups or organizations (since dissolved) which should be declared criminal by reason of their aims and the means used for the accomplishment thereof and in connection with the conviction of such of the named defendants as were members thereof: DIE REICHSREGIERUNG (REICH CABINET); DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (LEADERSHIP CORPS OF THE NAZI PARTY); DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (commonly known as the "SS") and including DER SICHERHEITSDIENST (commonly known as the "SD"); DIE GEHEIME STAATSPOLIZEI (SECRET STATE POLICE, commonly known as the "GESTAPO"); DIE STURMABTEILUNGEN DER NSDAP (commonly known as the "SA"); and the GENERAL STAFF and HIGH COMMAND of the GERMAN ARMED FORCES.

The identity and membership of the groups or organizations referred to in the foregoing titles are hereinafter in Appendix B more particularly defined.

COUNT ONE—THE COMMON PLAN OR CONSPIRACY

(Charter, Article 6, especially 6 (a))

III. Statement of the Offense

All the defendants, with divers other persons, during a period of years preceding 8 May 1945, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy to commit, or which involved the commission of, Crimes against Peace, War Crimes, and Crimes against Humanity, as defined in the Charter of this Tribunal, and, in accordance with the provisions of the Charter, are individually responsible for their own acts and for all acts committed by any persons in the execution of such plan or conspiracy. The common plan or conspiracy embraced the commission of Crimes against Peace, in that the defendants planned, prepared, initiated, and waged wars of aggression, which were also wars in violation of international treaties, agreements, or assurances. In the development and course of the common plan or conspiracy it came to embrace the commission of War Crimes, in that it contemplated, and the defendants determined upon and carried out, ruthless wars against countries and populations, in violation of the rules and customs of war, including as typical and systematic means by which the wars were prosecuted, murder, ill-treatment, deportation for slave labor and for other purposes of civilian populations of occupied territories, murder and ill-treatment of prisoners of war and of persons on the high seas, the taking and killing of hostages, the plunder of public and private property, the indiscriminate destruction of cities, towns, and villages, and devastation not justified by military necessity. The common plan or conspiracy contemplated and came to embrace as typical and systematic means, and the defendants determined upon and committed, Crimes against Humanity, both within Germany and within occupied territories, including murder, extermination, enslavement, deportation, and other inhumane acts committed against civilian populations before and during the war, and persecutions on political, racial, or religious grounds, in execution of the plan for preparing and prosecuting aggressive or illegal wars, many of such acts and persecutions being violations of the domestic laws of the countries where perpetrated.

IV. Particulars of the Nature and Development of the Common Plan or Conspiracy

(A) NAZI PARTY AS THE CENTRAL CORE OF THE COMMON PLAN OR CONSPIRACY

In 1921 Adolf Hitler became the supreme leader or Führer of the Nationalsozialistische Deutsche Arbeiterpartei (National Socialist German Workers Party), also known as the Nazi Party, which had been founded in Germany in 1920. He continued as such throughout the period covered by this Indictment. The Nazi Party, together with certain of its subsidiary organizations, became the instrument of cohesion among the defendants and their co-conspirators and an instrument for the carrying out of the aims and purposes of their conspiracy. Each defendant became a member of the Nazi Party and of the conspiracy, with knowledge of their aims and purposes, or, with such knowledge, became an accessory to their aims and purposes at some stage of the development of the conspiracy.

(B) COMMON OBJECTIVES AND METHODS OF CONSPIRACY

The aims and purposes of the Nazi Party and of the defendants and divers other persons from time to time associated as leaders, members, supporters, or adherents of the Nazi Party (hereinafter called collectively the "Nazi conspirators") were, or came to be, to accomplish the following by any means deemed opportune, including unlawful means, and contemplating ultimate resort to threat of force, force, and aggressive war: (i) to abrogate and overthrow the Treaty of Versailles and its restrictions upon the military armament and activity of Germany; (ii) to acquire the territories lost by Germany as the result of the World War of 1914-18 and other territories in Europe asserted by the Nazi conspirators to be occupied principally by so-called "racial Germans"; (iii) to acquire still further territories in continental Europe and elsewhere claimed by the Nazi conspirators to be required by the "racial Germans" as "Lebensraum," or living space, all at the expense of neighboring and other countries. The aims and purposes of the Nazi conspirators were not fixed or static but evolved and expanded as they acquired progressively greater power and became able to make more effective application of threats of force and threats of aggressive war. When their expanding aims and purposes became finally so great as to provoke such strength of resistance as could be overthrown only by armed force and aggressive war, and not simply by the opportunistic methods theretofore used, such as fraud, deceit, threats, intimidation, fifth column activities, and propaganda, the Nazi

conspirators deliberately planned, determined upon, and launched their aggressive wars and wars in violation of international treaties, agreements, and assurances by the phases and steps hereinafter more particularly described.

(C) DOCTRINAL TECHNIQUES OF THE COMMON PLAN OR CONSPIRACY

To incite others to join in the common plan or conspiracy, and as a means of securing for the Nazi conspirators the highest degree of control over the German community, they put forth, disseminated, and exploited certain doctrines, among others, as follows:

1. That persons of so-called "German blood" (as specified by the Nazi conspirators) were a "master race" and were accordingly entitled to subjugate, dominate, or exterminate other "races" and peoples;
2. That the German people should be ruled under the Führerprinzip (Leadership Principle) according to which power was to reside in a Führer from whom sub-leaders were to derive authority in a hierarchical order, each sub-leader to owe unconditional obedience to his immediate superior but to be absolute in his own sphere of jurisdiction; and the power of the leadership was to be unlimited, extending to all phases of public and private life;
3. That war was a noble and necessary activity of Germans;
4. That the leadership of the Nazi Party, as the sole bearer of the foregoing and other doctrines of the Nazi Party, was entitled to shape the structure, policies, and practices of the German State and all related institutions, to direct and supervise the activities of all individuals within the State, and to destroy all opponents.

(D) THE ACQUIRING OF TOTALITARIAN CONTROL OF GERMANY: POLITICAL

1. *First steps in acquisition of control of State machinery.*

In order to accomplish their aims and purposes, the Nazi conspirators prepared to seize totalitarian control over Germany to assure that no effective resistance against them could arise within Germany itself. After the failure of the Munich Putsch of 1923 aimed at the overthrow of the Weimar Republic by direct action, the Nazi conspirators set out through the Nazi Party to undermine and overthrow the German Government by "legal" forms supported by terrorism. They created and utilized, as a Party formation, Die Sturmabteilungen (SA), a semi-military, voluntary organization

of young men trained for and committed to the use of violence, whose mission was to make the Party the master of the streets.

2. *Control acquired.*

On 30 January 1933 Hitler became Chancellor of the German Republic. After the Reichstag fire of 28 February 1933, clauses of the Weimar constitution guaranteeing personal liberty, freedom of speech, of the press, of association and assembly were suspended. The Nazi conspirators secured the passage by the Reichstag of a "Law for the Protection of the People and the Reich" giving Hitler and the members of his then cabinet plenary powers of legislation. The Nazi conspirators retained such powers after having changed the members of the cabinet. The conspirators caused all political parties except the Nazi Party to be prohibited. They caused the Nazi Party to be established as a paragovernmental organization with extensive and extraordinary privileges.

3. *Consolidation of control.*

Thus possessed of the machinery of the German State, the Nazi conspirators set about the consolidation of their position of power within Germany, the extermination of potential internal resistance, and the placing of the German Nation on a military footing.

(a) The Nazi conspirators reduced the Reichstag to a body of their own nominees and curtailed the freedom of popular elections throughout the country. They transformed the several states, provinces, and municipalities, which had formerly exercised semi-autonomous powers, into hardly more than administrative organs of the central Government. They united the offices of the President and the Chancellor in the person of Hitler; instituted a widespread purge of civil servants; and severely restricted the independence of the judiciary and rendered it subservient to Nazi ends. The conspirators greatly enlarged existing State and Party organizations; established a network of new State and Party organizations; and "co-ordinated" State agencies with the Nazi Party and its branches and affiliates, with the result that German life was dominated by Nazi doctrine and practice and progressively mobilized for the accomplishment of their aims.

(b) In order to make their rule secure from attack and to instil fear in the hearts of the German people, the Nazi conspirators established and extended a system of terror against opponents and supposed or suspected opponents of the regime. They imprisoned such persons without judicial process, holding them in "protective custody" and concentration camps, and subjected them to persecution, degradation, despoilment, enslavement, torture, and murder. These concentration camps

were established early in 1933 under the direction of the Defendant GÖRING and expanded as a fixed part of the terroristic policy and method of the conspirators and used by them for the commission of the Crimes against Humanity hereinafter alleged. Among the principal agencies utilized in the perpetration of these crimes were the SS and the GESTAPO, which, together with other favored branches or agencies of the State and Party, were permitted to operate without restraint of law.

(c) The Nazi conspirators conceived that, in addition to the suppression of distinctively political opposition, it was necessary to suppress or exterminate certain other movements or groups which they regarded as obstacles to their retention of total control in Germany and to the aggressive aims of the conspiracy abroad. Accordingly:

(1) The Nazi conspirators destroyed the free trade unions in Germany by confiscating their funds and properties, persecuting their leaders, prohibiting their activities, and supplanting them by an affiliated Party organization. The Leadership Principle was introduced into industrial relations, the entrepreneur becoming the leader and the workers becoming his followers. Thus any potential resistance of the workers was frustrated and the productive labor capacity of the German Nation was brought under the effective control of the conspirators.

(2) The Nazi conspirators, by promoting beliefs and practices incompatible with Christian teaching, sought to subvert the influence of the churches over the people and in particular over the youth of Germany. They avowed their aim to eliminate the Christian churches in Germany and sought to substitute therefor Nazi institutions and Nazi beliefs, and pursued a program of persecution of priests, clergy, and members of monastic orders whom they deemed opposed to their purposes, and confiscated church property.

(3) The persecution by the Nazi conspirators of pacifist groups, including religious movements dedicated to pacifism, was particularly relentless and cruel.

(d) Implementing their "master race" policy, the conspirators joined in a program of relentless persecution of the Jews, designed to exterminate them. Annihilation of the Jews became an official State policy, carried out both by official action and by incitements to mob and individual violence. The conspirators openly avowed their purpose. For example, the Defendant ROSENBERG stated: "Anti-Semitism is the

unifying element of the reconstruction of Germany." On another occasion he also stated: "Germany will regard the Jewish question as solved only after the very last Jew has left the greater German living space ... Europe will have its Jewish question solved only after the very last Jew has left the Continent." The Defendant LEY declared: "We swear we are not going to abandon the struggle until the last Jew in Europe has been exterminated and is actually dead. It is not enough to isolate the Jewish enemy of mankind—the Jew has got to be exterminated." On another occasion he also declared: "The second German secret weapon is anti-Semitism because if it is consistently pursued by Germany, it will become a universal problem which all nations will be forced to consider." The Defendant STREICHER declared: "The sun will not shine on the nations of the earth until the last Jew is dead." These avowals and incitements were typical of the declarations of the Nazi conspirators throughout the course of their conspiracy. The program of action against the Jews included disfranchisement, stigmatization, denial of civil rights, subjecting their persons and property to violence, deportation, enslavement, enforced labor, starvation, murder, and mass extermination. The extent to which the conspirators succeeded in their purpose can only be estimated, but the annihilation was substantially complete in many localities of Europe. Of the 9,600,000 Jews who lived in the parts of Europe under Nazi domination, it is conservatively estimated that 5,700,000 have disappeared, most of them deliberately put to death by the Nazi conspirators. Only remnants of the Jewish population of Europe remain.

(e) In order to make the German people amenable to their will, and to prepare them psychologically for war, the Nazi conspirators reshaped the educational system and particularly the education and training of the German youth. The Leadership Principle was introduced into the schools and the Party and affiliated organizations were given wide supervisory powers over education. The Nazi conspirators imposed a supervision of all cultural activities, controlled the dissemination of information and the expression of opinion within Germany as well as the movement of intelligence of all kinds from and into Germany, and created vast propaganda machines.

(f) The Nazi conspirators placed a considerable number of their dominated organizations on a progressively militarized footing with a view to the rapid transformation and use of such organizations whenever necessary as instruments of war.

(E) THE ACQUIRING OF TOTALITARIAN CONTROL IN GERMANY: ECONOMIC; AND THE ECONOMIC PLANNING AND MOBILIZATION FOR AGGRESSIVE WAR

Having gained political power the conspirators organized Germany's economy to give effect to their political aims.

1. In order to eliminate the possibility of resistance in the economic sphere, they deprived labor of its rights of free industrial and political association as particularized in paragraph (D) 3 (c) (1) herein.

2. They used organizations of German business as instruments of economic mobilization for war.

3. They directed Germany's economy towards preparation and equipment of the military machine. To this end they directed finance, capital investment, and foreign trade.

4. The Nazi conspirators, and in particular the industrialists among them, embarked upon a huge re-armament program and set out to produce and develop huge quantities of materials of war and to create a powerful military potential.

5. With the object of carrying through the preparation for war the Nazi conspirators set up a series of administrative agencies and authorities. For example, in 1936 they established for this purpose the office of the Four Year Plan with the Defendant GÖRING as Plenipotentiary, vesting it with overriding control over Germany's economy. Furthermore, on 28 August 1939, immediately before launching their aggression against Poland, they appointed the Defendant FUNK Plenipotentiary for Economics; and on 30 August 1939, they set up the Ministerial Council for the Defense of the Reich to act as a War Cabinet.

(F) UTILIZATION OF NAZI CONTROL FOR FOREIGN AGGRESSION

1. *Status of the conspiracy by the middle of 1933 and projected plans.*

By the middle of the year 1933 the Nazi conspirators, having acquired governmental control over Germany, were in a position to enter upon further and more detailed planning with particular relationship to foreign policy. Their plan was to re-arm and to re-occupy and fortify the Rhineland, in violation of the Treaty of Versailles and other treaties, in order to acquire military strength and political bargaining power to be used against other nations.

2. The Nazi conspirators decided that for their purpose the Treaty of Versailles must definitely be abrogated and specific plans were made by them and put into operation by 7 March 1936, all of which opened the way for the major aggressive steps to follow,

as hereinafter set forth. In the execution of this phase of the conspiracy the Nazi conspirators did the following acts:

(*a*) They led Germany to enter upon a course of secret rearmament from 1933 to March 1935, including the training of military personnel and the production of munitions of war, and the building of an air force.

(*b*) On 14 October 1933, they led Germany to leave the International Disarmament Conference and the League of Nations.

(c) On 10 March 1935, the Defendant GÖRING announced that Germany was building a military air force.

(*d*) On 16 March 1935, the Nazi conspirators promulgated a law for universal military service, in which they stated the peace-time strength of the German Army would be fixed at 500,000 men.

(*e*) On 21 May 1935, they falsely announced to the world, with intent to deceive and allay fears of aggressive intentions, that they would respect the territorial limitations of the Versailles Treaty and comply with the Locarno Pacts.

(*f*) On 7 March 1936, they reoccupied and fortified the Rhineland, in violation of the Treaty of Versailles and the Rhine Pact of Locarno of 16 October 1925, and falsely announced to the world that "we have no territorial demands to make in Europe."

3. *Aggressive action against Austria and Czechoslovakia.*

(a) The 1936—1938 phase of the plan: planning for the assault on Austria and Czechoslovakia.

The Nazi conspirators next entered upon the specific planning for the acquisition of Austria and Czechoslovakia, realizing it would be necessary, for military reasons, first to seize Austria before assaulting Czechoslovakia. On 21 May 1935, in a speech to the Reichstag, Hitler stated that: "Germany neither intends nor wishes to interfere in the internal affairs of Austria, to annex Austria, or to conclude an Anschluss." On 1 May 1936, within two months after the reoccupation of the Rhineland, Hitler stated: "The lie goes forth again that Germany tomorrow or the day after will fall upon Austria or Czechoslovakia." Thereafter, the Nazi conspirators caused a treaty to be entered into between Austria and Germany on 11 July 1936, Article 1 of which stated that "The German Government recognizes the full sovereignty of the Federated State of Austria in the spirit of the pronouncements of the German Führer and Chancellor of 21 May 1935." Meanwhile, plans for aggression

in violation of that treaty were being made. By the autumn of 1937, all noteworthy opposition within the Reich had been crushed. Military preparation for the Austrian action was virtually concluded. An influential group of the Nazi conspirators met with Hitler on 5 November 1937, to review the situation. It was reaffirmed that Nazi Germany must have "Lebensraum" in central Europe. It was recognized that such conquest would probably meet resistance which would have to be crushed by force and that their decision might lead to a general war, but this prospect was discounted as a risk worth taking. There emerged from this meeting three possible plans for the conquest of Austria and Czechoslovakia. Which of the three was to be used was to depend upon the developments in the political and military situation in Europe. It was contemplated that the conquest of Austria and Czechoslovakia would, through compulsory emigration of 2,000,000 persons from Czechoslovakia and 1,000,000 persons from Austria, provide additional food to the Reich for 5,000,000 to 6,000,000 people, strengthen it militarily by providing shorter and better frontiers, and make possible the constituting of new armies up to about twelve divisions. Thus, the aim of the plan against Austria and Czechoslovakia was conceived of not as an end in itself but as a preparatory measure toward the next aggressive steps in the Nazi conspiracy.

(b) The execution of the plan to invade Austria: November 1937 to March 1938.

Hitler, on 8 February 1938, called Chancellor Schuschnigg to a conference at Berchtesgaden. At the meeting of 12 February 1938, under threat of invasion, Schuschnigg yielded a promise of amnesty to imprisoned Nazis and appointment of Nazis to ministerial posts. He agreed to remain silent until Hitler's 20 February speech in which Austria's independence was to be reaffirmed, but Hitler in his speech, instead of affirming Austrian independence, declared himself protector of all Germans. Meanwhile, underground activities of Nazis in Austria increased. Schuschnigg, on 9 March 1938, announced a plebiscite on the question of Austrian independence. On 11 March Hitler sent an ultimatum, demanding that the plebiscite be called off or that Germany would invade Austria. Later the same day a second ultimatum threatened invasion unless Schuschnigg should resign in three hours. Schuschnigg resigned. The Defendant SEYSS-INQUART, who was appointed Chancellor, immediately invited Hitler to send German troops into Austria to "preserve order". The invasion began on 12 March 1938. On 13 March, Hitler by proclamation assumed office as Chief of State of Austria and took command of its armed forces. By a law of the same date Austria was annexed to Germany.

(c) The execution of the plan to invade Czechoslovakia: April 1938 to March 1939.

1. Simultaneously with their annexation of Austria the Nazi conspirators gave false assurances to the Czechoslovak Government that they would not attack that country. But within a month they met to plan specific ways and means of attacking Czechoslovakia, and to revise, in the light of the acquisition of Austria, the previous plans for aggression against Czechoslovakia.

2. On 21 April 1938, the Nazi conspirators met and prepared to launch an attack on Czechoslovakia not later than 1 October 1938. They planned specifically to create an "incident" to "justify" the attack. They decided to launch a military attack only after a period of diplomatic squabbling which, growing more serious, would lead to the excuse for war, or, in the alternative, to unleash a lightning attack as a result of an "incident" of their own creation. Consideration was given to assassinating the German Ambassador at Prague to create the requisite incident. From and after 21 April 1938, the Nazi conspirators caused to be prepared detailed and precise military plans designed to carry out such an attack at any opportune moment and calculated to overcome all Czechoslovak resistance within four days, thus presenting the world with a *fait accompli,* and so forestalling outside resistance. Throughout the months of May, June, July, August, and September, these plans were made more specific and detailed, and by 3 September 1938, it was decided that all troops were to be ready for action on 28 September 1938.

3. Throughout this same period, the Nazi conspirators were agitating the minorities question in Czechoslovakia, and particularly in the Sudetenland, leading to a diplomatic crisis in August and September 1938. After the Nazi conspirators threatened war, the United Kingdom and France concluded a pact with Germany and Italy at Munich on 29 September 1938, involving the cession of the Sudetenland by Czechoslovakia to Germany. Czechoslovakia was required to acquiesce. On 1 October 1938, German troops occupied the Sudetenland.

4. On 15 March 1939, contrary to the provisions of the Munich Pact itself, the Nazi conspirators, caused the completion of their plan by seizing and occupying the major part of Czechoslovakia not ceded to Germany by the Munich Pact.

4. *Formulation of the plan to attack Poland: preparation and initiation of aggressive war: March 1939 to September 1939.*

(*a*) With these aggressions successfully consummated, the conspirators had obtained much desired resources and bases and were ready to undertake further aggressions by means of war. Following

assurances to the world of peaceful intentions, an influential group of the conspirators met on 23 May 1939, to consider the further implementation of their plan. The situation was reviewed and it was observed that "the past six years have been put to good use and all measures have been taken in correct sequence and in accordance with our aims"; that the national-political unity of the Germans had been substantially achieved; and that further successes could not be achieved without war and bloodshed. It was decided nevertheless next to attack Poland at the first suitable opportunity. It was admitted that the questions concerning Danzig which they had agitated with Poland were not true questions, but rather that the question was one of aggressive expansion for food and "Lebensraum". It was recognized that Poland would fight if attacked and that a repetition of the Nazi success against Czechoslovakia without war could not be expected. Accordingly, it was determined that the problem was to isolate Poland and, if possible, prevent a simultaneous conflict with the Western Powers. Nevertheless, it was agreed that England was an enemy to their aspirations, and that war with England and her ally France must eventually result, and therefore that in that war every attempt must be made to overwhelm England with a "Blitzkrieg". It was thereupon determined immediately to prepare detailed plans for an attack on Poland at the first suitable opportunity and thereafter for an attack on England and France, together with plans for the simultaneous occupation by armed force of air bases in the Netherlands and Belgium.

(b) Accordingly, after having denounced the German-Polish Pact of 1934 on false grounds, the Nazi conspirators proceeded to stir up the Danzig issue, to prepare frontier "incidents" to "justify" the attack, and to make demands for the cession of Polish territory. Upon refusal by Poland to yield, they caused German armed forces to invade Poland on 1 September 1939, thus precipitating war also with the United Kingdom and France.

5. *Expansion of the war into a general war of aggression: planning and execution of attacks on Denmark, Norway, Belgium, the Netherlands, Luxembourg, Yugoslavia, and Greece: 1939 to April 1941.*

Thus the aggressive war prepared for by the Nazi conspirators through their attacks on Austria and Czechoslovakia was actively launched by their attack on Poland. After the total defeat of Poland, in order to facilitate the carrying out of their military operations against France and the United Kingdom, the Nazi conspirators made active preparations for an extension of the war in Europe. In accordance with those plans, they caused the German armed forces to invade Denmark and Norway on 9 April 1940; Belgium, the

Netherlands, and Luxembourg on 10 May 1940; Yugoslavia and Greece on 6 April 1941. All these invasions had been specifically planned in advance, in violation of the terms of the Kellogg-Briand Pact of 1928.

6. *German invasion on 22 June 1941, of the U.S.S.R. territory in violation of Non-Aggression Pact of 23 August 1939.*

On 22 June 1941 the Nazi conspirators deceitfully denounced the Non-Aggression Pact between Germany and the U.S.S.R. and without any declaration of war invaded Soviet territory thereby beginning a War of Aggression against the U.S.S.R.

From the first day of launching their attack on Soviet territory the Nazi conspirators, in accordance with their detailed plans, began to carry out the destruction of cities, towns, and villages, the demolition of factories, collective farms, electric stations, and railroads, the robbery and barbaric devastation of the natural cultural institutions of the peoples of the U.S.S.R., the devastation of museums, schools, hospitals, churches, and historic monuments, the mass deportation of the Soviet citizens for slave labor to Germany, as well as the annihilation of adults, old people, women and children, especially Beilorussians and Ukrainians, and the extermination of Jews committed throughout the occupied territory of the Soviet Union.

The above mentioned criminal offenses were perpetrated by the German troops in accordance with the orders of the Nazi Government and the General Staff and High Command of the German armed forces.

7. *Collaboration with Italy and Japan and aggressive war against the United States: November 1936 to December 1941.*

After the initiation of the Nazi wars of aggression the Nazi conspirators brought about a German-Italian-Japanese 10-year military-economic alliance signed at Berlin on 27 September 1940. This agreement, representing a strengthening of the bonds among those three nations established by the earlier but more limited pact of 25 November 1936, stated: "The Governments of Germany, Italy, and Japan, considering it as a condition precedent of any lasting peace that all nations of the world be given each its own proper place, have decided to stand by and co-operate with one another in regard to their efforts in Greater East Asia and regions of Europe respectively wherein it is their prime purpose to establish and maintain a new order of things calculated to promote the mutual prosperity and welfare of the peoples concerned." The Nazi conspirators conceived that Japanese aggression would weaken and

handicap those nations with whom they were at war, and those with whom they contemplated war. Accordingly, the Nazi conspirators exhorted Japan to seek "a new order of things." Taking advantage of the wars of aggression then being waged by the Nazi conspirators, Japan commenced an attack on 7 December 1941, against the United States of America at Pearl Harbor and the Philippines, and against the British Commonwealth of Nations, French Indo-China, and the Netherlands in the southwest Pacific. Germany declared war against the United States on 11 December 1941.

(G) WAR CRIMES AND CRIMES AGAINST HUMANITY COMMITTED IN THE COURSE OF EXECUTING THE CONSPIRACY FOR WHICH THE CONSPIRATORS ARE RESPONSIBLE.

1. Beginning with the initiation of the aggressive war on 1 September 1939, and throughout its extension into wars involving almost the entire world, the Nazi conspirators carried out their common plan or conspiracy to wage war in ruthless and complete disregard and violation of the laws and customs of war. In the course of executing the common plan or conspiracy there were committed the War Crimes detailed hereinafter in Count Three of this Indictment.

2. Beginning with the initiation of their plan to seize and retain total control of the German State, and thereafter throughout their utilization of that control for foreign aggression, the Nazi conspirators carried out their common plan or conspiracy in ruthless and complete disregard and violation of the laws of humanity. In the course of executing the common plan or conspiracy there were committed the Crimes against Humanity detailed hereinafter in Count Four of this Indictment.

3. By reason of all the foregoing, the defendants with divers other persons are guilty of a common plan or conspiracy for the accomplishment of Crimes against Peace; of a conspiracy to commit Crimes against Humanity in the course of preparation for war and in the course of prosecution of war; and of a conspiracy to commit War Crimes not only against the armed forces of their enemies but also against non-belligerent civilian populations.

(H) INDIVIDUAL, GROUP AND ORGANIZATION RESPONSIBILITY FOR THE OFFENSE STATED IN COUNT ONE

Reference is hereby made to Appendix A of this Indictment for a statement of the responsibility of the individual defendants for the offense set forth in this Count One of the Indictment. Reference is hereby made to Appendix B of this Indictment for a statement of the responsibility of the groups and organizations named herein

as criminal groups and organizations for the offense set forth in this Count One of the Indictment.

COUNT TWO—CRIMES AGAINST PEACE

(Charter, Article 6 (a))

V. Statement of the Offense

All the defendants with divers other persons, during a period of years preceding 8 May 1945, participated in the planning, preparation, initiation, and waging of wars of aggression, which were also wars in violation of international treaties, agreements, and assurances.

VI. Particulars of the wars planned, prepared, initiated, and waged

(*A*) The wars referred to in the Statement of Offense in this Count Two of the Indictment and the dates of their initiation were the following: against Poland, 1 September 1939; against the United Kingdom and France, 3 September 1939; against Denmark and Norway, 9 April 1940; against Belgium, the Netherlands, and Luxembourg, 10 May 1940; against Yugoslavia and Greece, 6 April 1941; against the U.S.S.R., 22 June 1941; and against the United States of America, 11 December 1941.

(*B*) Reference is hereby made to Count One of the Indictment for the allegations charging that these wars were wars of aggression on the part of the defendants.

(*C*) Reference is hereby made to Appendix C annexed to this Indictment for a statement of particulars of the charges of violations of international treaties, agreements, and assurances caused by the defendants in the course of planning, preparing, and initiating these wars.

VII. Individual, Group and Organization Responsibility for the Offense Stated in Count Two

Reference is hereby made to Appendix A of this Indictment for a statement of the responsibility of the individual defendants for the offense set forth in this Count Two of the Indictment. Reference is hereby made to Appendix B of this Indictment for a statement of the responsibility of the groups and organizations named herein as criminal groups and organizations for the offense set forth in this Count Two of the Indictment.

COUNT THREE—WAR CRIMES

(Charter, Article 6, especially 6 (b))

VIII. Statement of the Offense

All the defendants committed War Crimes between 1 September 1939 and 8 May 1945, in Germany and in all those countries and

territories occupied by the German Armed Forces since 1 September 1939, and in Austria, Czechoslovakia, and Italy, and on the High Seas.

All the defendants, acting in concert with others, formulated and executed a Common Plan or Conspiracy to commit War Crimes as defined in Article 6 (b) of the Charter. This plan involved, among other things, the practice of "total war" including methods of combat and of military occupation in direct conflict with the laws and customs of war, and the commission of crimes perpetrated on the field of battle during encounters with enemy armies, and against prisoners of war, and in occupied territories against the civilian population of such territories.

The said War Crimes were committed by the defendants and by other persons for whose acts the defendants are responsible (under Article 6 of the Charter) as such other persons when committing the said War Crimes performed their acts in execution of a common plan and conspiracy to commit the said War Crimes, in the formulation and execution of which plan and conspiracy all the defendants participated as leaders, organizers, instigators, and accomplices.

These methods and crimes constituted violations of international conventions, of internal penal laws and of the general principles of criminal law as derived from the criminal law of all civilized nations, and were involved in and part of a systematic course of conduct.

(*A*) MURDER AND ILL-TREATMENT OF CIVILIAN POPULATIONS OF OR IN OCCUPIED TERRITORY AND ON THE HIGH SEAS

Throughout the period of their occupation of territories overrun by their armed forces the defendants, for the purpose of systematically terrorizing the inhabitants, murdered and tortured civilians, and ill-treated them, and imprisoned them without legal process.

The murders and ill-treatment were carried out by divers means, including shooting, hanging, gassing, starvation, gross overcrowding, systematic under-nutrition, systematic imposition of labor tasks beyond the strength of those ordered to carry them out, inadequate provision of surgical and medical services, kickings, beatings, brutality and torture of all kinds, including the use of hot irons and pulling out of fingernails and the performance of experiments by means of operations and otherwise on living human subjects. In some occupied territories the defendants interfered in religious matters, persecuted members of the clergy and monastic orders, and expropriated church property. They conducted deliberate and systematic genocide, viz., the extermination of racial

and national groups, against the civilian populations of certain occupied territories in order to destroy particular races and classes of people and national, racial, or religious groups, particularly Jews, Poles, and Gypsies and others.

Civilians were systematically subjected to tortures of all kinds, with the object of obtaining information.

Civilians of occupied countries were subjected systematically to "protective arrests" whereby they were arrested and imprisoned without any trial and any of the ordinary protections of the law, and they were imprisoned under the most unhealthy and inhumane conditions.

In the concentration camps were many prisoners who were classified "Nacht und Nebel". These were entirely cut off from the world and were allowed neither to receive nor to send letters. They disappeared without trace and no announcement of their fate was ever made by the German authorities.

Such murders and ill-treatment were contrary to international conventions, in particular to Article 46 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and to Article 6 (b) of the Charter.

The following particulars and all the particulars appearing later in this count are set out herein by way of example only, are not exclusive of other particular cases, and are stated without prejudice to the right of the Prosecution to adduce evidence of other cases of murder and ill-treatment of civilians.

1. *In France, Belgium, Denmark, Holland, Norway, Luxembourg, Italy, and the Channel Islands (hereinafter called the "Western Countries") and in that part of Germany which lies west of a line drawn due north and south through the center of Berlin (hereinafter called "Western Germany").*

Such murder and ill-treatment took place in concentration camps and similar establishments set up by the defendants, and particularly in the concentration camps set up at Belsen, Buchenwald, Dachau, Breendonck, Grini, Natzweiler, Ravensbruck, Vught, and Amersfoort, and in numerous cities, towns, and villages, including Oradour-sur-Glane, Trondheim, and Oslo.

Crimes committed in France or against French citizens took the following forms:

Arbitrary arrests were carried out under political or racial pretexts: they were both individual and collective; notably in Paris (round-up of the 18th Arrondissement by the Field Gendarmerie, round-up of the Jewish population of the 11th Arrondissement in August 1941, round-up of Jewish intellectuals in

December 1941, round-up in July 1942); at Clermont-Ferrand (round-up of professors and students of the University of Strasbourg, who were taken to Clermont-Ferrand on 25 November 1943); at Lyons; at Marseilles (round-up of 40,000 persons in January 1943); at Grenoble (round-up on 24 December 1943); at Cluny (round-up on 24 December 1944); at Figeac (round-up in May 1944); at Saint Pol de Léon (round-up in July 1944); at Locminé (round-up on 3 July 1944); at Eysieux (round-up in May 1944) and at Moussey (round-up in September 1944). These arrests were followed by brutal treatment and tortures carried out by the most diverse methods, such as immersion in icy water, asphyxiation, torture of the limbs, and the use of instruments of torture, such as the iron helmet and electric current, and practiced in all the prisons of France, notably in Paris, Lyons, Marseilles, Rennes, Metz, Clermont-Ferrand, Toulouse, Nice, Grenoble, Annecy, Arras, Béthune, Lille, Loos, Valenciennes, Nancy, Troyes, and Caen, and in the torture chambers fitted up at the Gestapo centers.

In the concentration camps, the health regime and the labor regime were such that the rate of mortality (alleged to be from natural causes) attained enormous proportions, for instance:

1. Out of a convoy of 230 French women deported from Compiègne to Auschwitz in January 1943, 180 died of exhaustion by the end of four months.
2. 143 Frenchmen died of exhaustion between 23 March and 6 May 1943, in Block 8 at Dachau.
3. 1,797 Frenchmen died of exhaustion between 21 November 1943, and 15 March 1945, in the Block at Dora.
4. 465 Frenchmen died of general debility in November 1944, at Dora.
5. 22,761 deportees died of exhaustion at Buchenwald between 1 January 1943, and 15 April 1945.
6. 11,560 detainees died of exhaustion at Dachau Camp (most of them in Block 30 reserved for the sick and the infirm) between 1 January and 15 April 1945.
7. 780 priests died of exhaustion at Mauthausen.
8. Out of 2,200 Frenchmen registered at Flossenburg Camp, 1,600 died from supposedly natural causes.

Methods used for the work of extermination in concentration camps were:

Bad treatment, pseudo-scientific experiments (sterilization of women at Auschwitz and at Ravensbrück, study of the evolution of

cancer of the womb at Auschwitz, of typhus at Buchenwald, anatomical research at Natzweiller, heart injections at Buchenwald, bone grafting and muscular excisions at Ravensbrück, etc.), gas chambers, gas wagons, and crematory ovens. Of 228,000 French political and racial deportees in concentration camps, only 28,000 survived.

In France systematic extermination was practiced also, notably at Asq on 1 April 1944, at Colpo on 22 July 1944, at Buzet-sur-Tarn on 6 July 1944 and on 17 August 1944, at Pluvignier on 8 July 1944, at Rennes on 8 June 1944, at Grenoble on 8 July 1944, at Saint Flour on 10 June 1944, at Ruisnes on 10 July 1944, at Nimes, at Tulle, and at Nice, where, in July 1944, the victims of torture were exposed to the population, and at Oradour-sur-Glane where the entire village population was shot or burned alive in the church.

The many charnel pits give proof of anonymous massacres. Most notable of these are the charnel pits of Paris (Cascade du Bois de Boulogne), Lyons, Saint-Genis-Laval, Besançon, Petit-Saint-Bernard, Aulnat, Caen, Port-Louis, Charleval, Fontainebleau, Bouconne, Gabaudet, Lhermitage Lorges, Morlaas, Bordelongue, Signe.

In the course of a premeditated campaign of terrorism, initiated in Denmark by the Germans in the latter part of 1943, 600 Danish subjects were murdered and, in addition, throughout the German occupation of Denmark, large numbers of Danish subjects were subjected to torture and ill-treatment of all sorts. In addition, approximately 500 Danish subjects were murdered, by torture and otherwise, in German prisons and concentration camps.

In Belgium between 1940 and 1944 tortures by various means, but identical in each place, were carried out at Brussels, Liége, Mons, Ghent, Namur, Antwerp, Tournai, Arlon, Charleroi, and Dinant.

At Vught, in Holland, when the camp was evacuated about 400 persons were murdered by shooting.

In Luxembourg, during the German occupation, 500 persons were murdered and, in addition, another 521 were illegally executed, by order of such special tribunals as the so-called "Sondergericht". Many more persons in Luxembourg were subjected to torture and mistreatment by the Gestapo. Not less than 4,000 Luxembourg nationals were imprisoned during the period of German occupation, and of these at least 400 were murdered.

Between March 1944 and April 1945, in Italy, at least 7,500 men, women, and children, ranging in years from infancy to extreme old age were murdered by the German soldiery at Civitella, in the Ardeatine Caves in Rome, and at other places.

2. *In the U.S.S.R., i. e., in the Bielorussian, Ukrainian, Estonian, Latvian, Lithuanian, Karelo-Finnish, and Moldavian Soviet Socialist Republics, in 19 regions of the Russian Soviet Federated Socialist Republic, and in Poland, Czechoslovakia, Yugoslavia, Greece, and the Balkans (hereinafter called "the Eastern Countries") and in that part of Germany which lies east of a line drawn north and south through the center of Berlin (hereinafter called "Eastern Germany").*

From 1 September 1939, when the German Armed Forces invaded Poland, and from 22 June 1941, when they invaded the U.S.S.R., the German Government and the German High Command adopted a systematic policy of murder and ill-treatment of the civilian populations of and in the Eastern Countries as they were successively occupied by the German Armed Forces. These murders and ill-treatments were carried on continuously until the German Armed Forces were driven out of the said countries.

Such murders and ill-treatments included:

(*a*) Murders and ill-treatments at concentration camps and similar establishments set up by the Germans in the Eastern Countries and in Eastern Germany including those set up at Maidanek and Auschwitz.

The said murders and ill-treatments were carried out by divers means including all those set out above, as follows:

About 1,500,000 persons were exterminated in Maidanek and about 4,000,000 persons were exterminated in Auschwitz, among whom were citizens of Poland, the U.S.S.R., the United States of America, Great Britain, Czechoslovakia, France, and other countries.

In the Lwow region and in the city of Lwow the Germans exterminated about 700,000 Soviet people, including 70 persons in the field of the arts, science, and technology, and also citizens of the United States of America, Great Britain, Czechoslovakia, Yugoslavia, and Holland, brought to this region from other concentration camps.

In the Jewish ghetto from 7 September 1941 to 6 July 1943, over 133,000 persons were tortured and shot.

Mass shooting of the population occurred in the suburbs of the city and in the Livenitz forest.

In the Ganov camp 200,000 peaceful citizens were exterminated. The most refined methods of cruelty were employed in this extermination, such as disembowelling and the freezing of human beings in tubs of water. Mass shootings took place to the accompaniment of the music of an orchestra recruited from the persons interned.

Beginning with June 1943, the Germans carried out measures to hide the evidence of their crimes. They exhumed and burned corpses, and they crushed the bones with machines and used them for fertilizer.

At the beginning of 1944 in the Ozarichi region of the Bielorussian S.S.R., before liberation by the Red Army, the Germans established three concentration camps without shelters, to which they committed tens of thousands of persons from the neighboring territories. They brought many people to these camps from typhus hospitals intentionally, for the purpose of infecting the other persons interned and for spreading the disease in territories from which the Germans were being driven by the Red Army. In these camps there were many murders and crimes.

In the Estonian S.S.R. they shot tens of thousands of persons and in one day alone, 19 September 1944, in Camp Kloga, the Germans shot 2,000 peaceful citizens. They burned the bodies on bonfires.

In the Lithuanian S.S.R. there were mass killings of Soviet citizens, namely: in Panerai at least 100,000; in Kaunas more than 70,000; in Alitus about 60,000; at Prenai more than 3,000; in Villiampol about 8,000; in Mariampol about 7,000; in Trakai and neighboring towns 37,640.

In the Latvian S.S.R. 577,000 persons were murdered.

As a result of the whole system of internal order maintained in all camps, the interned persons were doomed to die.

In a secret instruction entitled "the internal regime in concentration camps", signed personally by Himmler in 1941 severe measures of punishment were set forth for the internees. Masses of prisoners of war were shot, or died from the cold and torture.

(*b*) Murders and ill-treatments at places in the Eastern Countries and in the Soviet Union, other than in the camps referred to in (*a*) above, included, on various dates during the occupation by the German Armed Forces:

The destruction in the Smolensk region of over 135,000 Soviet citizens.

Among these, near the village of Kholmetz of the Sychev region, when the military authorities were required to remove the mines from an area, on the order of the Commander of the 101st German Infantry Division, Major-General Fisler, the German soldiers gathered the inhabitants of the village of Kholmetz and forced them to remove mines from the road. All of these people lost their lives as a result of exploding mines.

In the Leningrad region there were shot and tortured over 172,000 persons, including over 20,000 persons who were killed in the city of Leningrad by the barbarous artillery barrage and the bombings.

In the Stavropol region in an anti-tank trench close to the station of Mineralny Vody, and in other cities, tens of thousands of persons were exterminated.

In Pyatigorsk many were subjected to torture and criminal treatment, including suspension from the ceiling and other methods. Many of the victims of these tortures were then shot.

In Krasnodar some 6,700 civilians were murdered by poison gas in gas vans, or were tortured and shot.

In the Stalingrad region more than 40,000 persons were tortured and killed. After the Germans were expelled from Stalingrad, more than a thousand mutilated bodies of local inhabitants were found with marks of torture. One hundred and thirty-nine women had their arms painfully bent backward and held by wires. From some their breasts had been cut off and their ears, fingers, and toes had been amputated. The bodies bore the marks of burns. On the bodies of the men the five pointed star was burned with an iron or cut with a knife. Some were disembowelled.

In Orel over 5,000 persons were murdered.

In Novgorod and in the Novgorod region many thousands of Soviet citizens were killed by shooting, starvation, and torture. In Minsk tens of thousands of citizens were similarly killed.

In the Crimea peaceful citizens were gathered on barges, taken out to sea and drowned, over 144,000 persons being exterminated in this manner.

In the Soviet Ukraine there were monstrous criminal acts of the Nazi conspirators. In Babi Yar, near Kiev, they shot over 100,000 men, women, children, and old people. In this city in January 1942, after the explosion in German Headquarters on Dzerzhinsky Street the Germans arrested as hostages 1,250 persons—old men, minors, women with nursing infants. In Kiev they killed over 195,000 persons.

In Rovno and the Rovno region they killed and tortured over 100,000 peaceful citizens.

In Dnepropetrovsk, near the Transport Institute, they shot or threw alive into a great ravine 11,000 women, old men, and children.

In Kamenetz-Podolsk Region 31,000 Jews were shot and exterminated, including 13,000 persons brought there from Hungary.

In the Odessa Region at least 200,000 Soviet citizens were killed.

In Kharkov about 195,000 persons were either tortured to death, shot, or gassed in gas vans.

In Gomel the Germans rounded up the population in prison, and tortured and tormented them, and then took them to the center of the city and shot them in public.

In the city of Lyda in the Grodnen region on 8 May 1942, 5,670 persons were completely undressed, driven into pens in groups of 100, and then shot by machine guns. Many were thrown in the graves while they were still alive.

Along with adults the Nazi conspirators mercilessly destroyed even children. They killed them with their parents, in groups, and alone. They killed them in children's homes and hospitals, burying the living in the graves, throwing them into flames, stabbing them with bayonets, poisoning them, conducting experiments upon them, extracting their blood for the use of the German Army, throwing them into prison and Gestapo torture chambers and concentration camps, where the children died from hunger, torture, and epidemic diseases.

From 6 September to 24 November 1942, in the region of Brest, Pinsk, Kobren, Dyvina, Malority, and Berezy-Kartuzsky about 400 children were shot by German punitive units.

In the Yanov camp in the city of Lwow the Germans killed 8,000 children in two months.

In the resort of Tiberda the Germans annihilated 500 children suffering from tuberculosis of the bone, who were in the sanatorium for the cure.

On the territory of the Latvian S.S.R. the German usurpers killed thousands of children, whom they had brought there with their parents from the Bielorussian S.S.R., and from the Kalinin, Kaluga, and other regions of the R.S.F.S.R.

In Czechoslovakia as a result of torture, beating, hanging, and shootings, there were annihilated in Gestapo prisons in Brno, Seim, and other places over 20,000 persons. Moreover, many thousands of internees were subjected to criminal treatment, beatings, and torture.

Both before the war, as well as during the war, thousands of Czech patriots, in particular Catholics and Protestants, lawyers, doctors, teachers, etc., were arrested as hostages and imprisoned. A large number of these hostages were killed by the Germans.

In Greece in October 1941, the male populations between 16 and 60 years of age of the Greek villages Amelofito, Kliston, Kizonia Mesovunos, Selli, Ano-Kerzilion and Kato-Kerzilion were shot—in all 416 persons.

In Yugoslavia many thousands of civilians were murdered. Other examples are given under paragraph (D), "Killing of Hostages", below.

(B) DEPORTATION FOR SLAVE LABOR AND FOR OTHER PURPOSES OF THE CIVILIAN POPULATIONS OF AND IN OCCUPIED TERRITORIES

During the whole period of the occupation by Germany of both the Western and the Eastern Countries it was the policy of the German Government and of the German High Command to deport able-bodied citizens from such occupied countries to Germany and to other occupied countries for the purpose of slave labor upon defense works, in factories, and in other tasks connected with the German war effort.

In pursuance of such policy there were mass deportations from all the Western and Eastern Countries for such purposes during the whole period of the occupation.

Such deportations were contrary to international conventions, in particular to Article 46 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and to Article 6 (*b*) of the Charter.

Particulars of deportations, by way of example only and without prejudice to the production of evidence of other cases are as follows:

1. From the Western Countries:

From France the following deportations of persons for political and racial reasons took place—each of which consisted of from 1,500 to 2,500 deportees:

1940	.....	3 Transports
1941	.....	14 Transports
1942	.....	104 Transports
1943	.....	257 Transports
1944	.....	326 Transports

Such deportees were subjected to the most barbarous conditions of overcrowding; they were provided with wholly insufficient clothing and were given little or no food for several days.

The conditions of transport were such that many deportees died in the course of the journey, for example:

In one of the wagons of the train which left Compiègne for Buchenwald, on 17 September 1943, 80 men died out of 130;

On 4 June 1944, 484 bodies were taken out of the train at Sarrebourg;

In a train which left Compiègne on 2 July 1944 for Dachau, more than 600 dead were found on arrival, i.e. one-third of the total number;

In a train which left Compiègne on 16 January 1944 for Buchenwald, more than 100 men were confined in each wagon, the dead and the wounded being heaped in the last wagon during the journey;

In April 1945, of 12,000 internees evacuated from Buchenwald, 4,000 only were still alive when the marching column arrived near Regensburg.

During the German occupation of Denmark, 5,200 Danish subjects were deported to Germany and there imprisoned in concentration camps and other places.

In 1942 and thereafter 6,000 nationals of Luxembourg were deported from their country under deplorable conditions as a result of which many of them perished.

From Belgium between 1940 and 1944 at least 190,000 civilians were deported to Germany and used as slave labor. Such deportees were subjected to ill-treatment and many of them were compelled to work in armament factories.

From Holland, between 1940 and 1944, nearly half a million civilians were deported to Germany and to other occupied countries.

2. From the Eastern Countries:

The German occupying authorities deported from the Soviet Union to slavery about 4,978,000 Soviet citizens.

Seven hundred and fifty thousand Czechoslovakian citizens were taken away from Czechoslovakia and forced to work in the German war machine in the interior of Germany.

On 4 June 1941, in the city of Zagreb (Yugoslavia) a meeting of German representatives was called with the Councillor Von Troll presiding. The purpose was to set up the means of deporting the Yugoslav population from Slovenia. Tens of thousands of persons were deported in carrying out this plan.

(C) MURDER AND ILL-TREATMENT OF PRISONERS OF WAR, AND OF OTHER MEMBERS OF THE ARMED FORCES OF THE COUNTRIES WITH WHOM GERMANY WAS AT WAR, AND OF PERSONS ON THE HIGH SEAS

The defendants murdered and ill-treated prisoners of war by denying them adequate food, shelter, clothing and medical care and attention; by forcing them to labor in inhumane conditions; by torturing them and subjecting them to inhuman indignities and by killing them. The German Government and the German High Command imprisoned prisoners of war in various concentration camps, where they were killed and subjected to inhuman treatment by the various methods set forth in paragraph VIII (A). Members of the armed forces of the countries with whom Germany was at war were

frequently murdered while in the act of surrendering. These murders and ill-treatment were contrary to International Conventions, particularly Articles 4, 5, 6, and 7 of the Hague Regulations, 1907, and to Articles 2, 3, 4, and 6 of the Prisoners of War Convention (Geneva 1929), the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and to Article 6 (b) of the Charter.

Particulars by way of example and without prejudice to the production of evidence of other cases, are as follows:

1. In the Western Countries:

French officers who escaped from Oflag X C were handed over to the Gestapo and disappeared; others were murdered by their guards; others sent to concentration camps and exterminated. Among others, the men of Stalag VI C were sent to Buchenwald.

Frequently prisoners captured on the Western Front were obliged to march to the camps until they completely collapsed. Some of them walked more than 600 kilometers with hardly any food; they marched on for 48 hours running, without being fed; among them a certain number died of exhaustion or of hunger; stragglers were systematically murdered.

The same crimes have been committed in 1943, 1944, and 1945 when the occupants of the camps were withdrawn before the Allied advance; particularly during the withdrawal of the prisoners of Sagan on 8 February 1945.

Bodily punishments were inflicted upon non-commissioned officers and cadets who refused to work. On 24 December 1943, three French non-commissioned officers were murdered for that motive in Stalag IV A. Many ill-treatments were inflicted without motive on other ranks: stabbing with bayonets, striking with riflebutts, and whipping; in Stalag XX B the sick themselves were beaten many times by sentries; in Stalag III B and Stalag III C, worn-out prisoners were murdered or grievously wounded. In military jails in Graudenz for instance, in reprisal camps as in Rava-Ruska, the food was so insufficient that the men lost more than 15 kilograms in a few weeks. In May 1942, one loaf of bread only was distributed in Rava-Ruska to each group of 35 men.

Orders were given to transfer French officers in chains to the camp of Mauthausen after they had tried to escape. At their arrival in camp they were murdered, either by shooting or by gas, and their bodies destroyed in the crematorium.

American prisoners, officers and men, were murdered in Normandy during the summer of 1944 and in the Ardennes in December 1944. American prisoners were starved, beaten, and otherwise

mistreated in numerous Stalags in Germany and in the occupied countries, particularly in 1943, 1944, and 1945.

2. In the Eastern Countries:

At Orel prisoners of war were exterminated by starvation, shooting, exposure, and poisoning.

Soviet prisoners of war were murdered *en masse* on orders from the High Command and the Headquarters of the SIPO and SD. Tens of thousands of Soviet prisoners of war were tortured and murdered at the "Gross Lazaret" at Slavuta.

In addition, many thousands of the persons referred to in paragraph VIII (A) 2, above, were Soviet prisoners of war.

Prisoners of war who escaped and were recaptured were handed over to SIPO and SD for shooting.

Frenchmen fighting with the Soviet Army who were captured were handed over to the Vichy Government for "proceedings".

In March 1944, 50 R.A.F. officers who escaped from Stalag Luft III at Sagan, when recaptured, were murdered.

In September 1941, 11,000 Polish officers who were prisoners of war were killed in the Katyn Forest near Smolensk.

In Yugoslavia the German Command and the occupying authorities in the person of the chief officials of the Police, the SS troops (Police Lieutenant General Rosener) and the Divisional Group Command (General Kübler and others) in the period 1941-43 ordered the shooting of prisoners of war.

(D) KILLING OF HOSTAGES

Throughout the territories occupied by the German Armed Forces in the course of waging aggressive wars, the defendants adopted and put into effect on a wide scale the practice of taking, and of killing, hostages from the civilian population. These acts were contrary to international conventions, particularly Article 50 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and to Article 6 (b) of the Charter.

Particulars by way of example and without prejudice to the production of evidence of other cases, are as follows:

1. In the Western Countries:

In France hostages were executed either individually or collectively; these executions took place in all the big cities of France,

among others in Paris, Bordeaux, and Nantes, as well as at Châteaubriant.

In Holland many hundreds of hostages were shot at the following among other places—Rotterdam, Apeldoorn, Amsterdam, Benschop, and Haarlem.

In Belgium many hundreds of hostages were shot during the period 1940 to 1944.

2. In the Eastern Countries:

At Kragnevatz in Yugoslavia 2,300 hostages were shot in October 1941.

At Kralevo in Yugoslavia 5,000 hostages were shot.

(E) PLUNDER OF PUBLIC AND PRIVATE PROPERTY

The defendants ruthlessly exploited the people and the material resources of the countries they occupied, in order to strengthen the Nazi war machine, to depopulate and impoverish the rest of Europe, to enrich themselves and their adherents, and to promote German economic supremacy over Europe.

The defendants engaged in the following acts and practices, among others:

1. They degraded the standard of life of the people of occupied countries and caused starvation, by stripping occupied countries of foodstuffs for removal to Germany.
2. They seized raw materials and industrial machinery in all of the occupied countries, removed them to Germany and used them in the interest of the German war effort and the German economy.
3. In all the occupied countries, in varying degrees, they confiscated businesses, plants, and other property.
4. In an attempt to give color of legality to illegal acquisitions of property, they forced owners of property to go through the forms of "voluntary" and "legal" transfers.
5. They established comprehensive controls over the economies of all of the occupied countries and directed their resources, their production and their labor in the interests of the German war economy, depriving the local populations of the products of essential industries.
6. By a variety of financial mechanisms, they despoiled all of the occupied countries of essential commodities and accumulated wealth, debased the local currency systems and disrupted

the local economies. They financed extensive purchases in occupied countries through clearing arrangements by which they exacted loans from the occupied countries. They imposed occupation levies, exacted financial contributions, and issued occupation currency, far in excess of occupation costs. They used these excess funds to finance the purchase of business properties and supplies in the occupied countries.

7. They abrogated the rights of the local populations in the occupied portions of the U.S.S.R. and in Poland and in other countries to develop or manage agricultural and industrial properties, and reserved this area for exclusive settlement, development, and ownership by Germans and their so-called racial brethren.

8. In further development of their plan of criminal exploitation, they destroyed industrial cities, cultural monuments, scientific institutions, and property of all types in the occupied territories to eliminate the possibility of competition with Germany.

9. From their program of terror, slavery, spoliation, and organized outrage, the Nazi conspirators created an instrument for the personal profit and aggrandizement of themselves and their adherents. They secured for themselves and their adherents:

   (a) Positions in administration of business involving power, influence, and lucrative perquisites.

   (*b*) The use of cheap forced labor.

   (*c*) The acquisition on advantageous terms of foreign properties, business interests, and raw materials.

   (*d*) The basis for the industrial supremacy of Germany.

These acts were contrary to international conventions, particularly Articles 46 to 56 inclusive of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed and to Article 6 (*b*) of the Charter.

Particulars (by way of example and without prejudice to the production of evidence of other cases) are as follows:

1. Western Countries:

There was plundered from the Western Countries, from 1940 to 1944, works of art, artistic objects, pictures, plastics, furniture, textiles, antique pieces, and similar articles of enormous value to the number of 21,903.

In France statistics show the following:

Removal of Raw Materials.

Coal	63,000,000	tons
Electric energy	20,976	Mkwh
Petrol and fuel	1,943,750	tons
Iron ore	74,848,000	„
Siderurgical products	3,822,000	„
Bauxite	1,211,800	„
Cement	5,984,000	„
Lime	1,888,000	„
Quarry products	25,872,000	„

and various other products to a total value of 79,961,423,000 francs.

Removal of Industrial Equipment.

Total: 9,759,861,000 francs, of which 2,626,479,000 francs of machine tools.

Removal of Agricultural Produce.

Total: 126,655,852,000 francs, i. e., for the principal products.

Wheat	2,947,337	tons
Oats	2,354,080	"
Milk	790,000	hectolitres
" (concentrated and in powder)	460,000	"
Butter	76,000	tons
Cheese	49,000	"
Potatoes	725,975	"
Various vegetables	575,000	"
Wine	7,647,000	hectolitres
Champagne	87,000,000	bottles
Beer	3,821,520	hectolitres
Various kinds of alcohol	1,830,000	"

Removal of Manufactured Products.

To a total of 184,640,000,000 francs.

Plundering.

Francs: 257,020,024,000 from private enterprise.
Francs: 55,000,100,000 from the State.

Financial Exploitation.

From June 1940 to September 1944 the French Treasury was compelled to pay to Germany 631,866,000,000 francs.

Looting and Destruction of Works of Art.

The museums of Nantes, Nancy, Old-Marseilles were looted.

Private collections of great value were stolen. In this way Raphaels, Vermeers, Van Dycks, and works of Rubens, Holbein, Rembrandt, Watteau, Boucher disappeared. Germany compelled France to deliver up "The Mystic Lamb" by Van Eyck, which Belgium had entrusted to her.

In Norway and other occupied countries decrees were made by which the property of many civilians, societies, etc., was confiscated. An immense amount of property of every kind was plundered from France, Belgium, Norway, Holland, and Luxembourg.

As a result of the economic plundering of Belgium between 1940 and 1944 the damage suffered amounted to 175 billions of Belgian francs.

2. Eastern Countries:

During the occupation of the Eastern Countries the German Government and the German High Command carried out, as a systematic policy, a continuous course of plunder and destruction including:

On the territory of the Soviet Union the Nazi conspirators destroyed or severely damaged 1,710 cities and more than 70,000 villages and hamlets, more than 6,000,000 buildings and made homeless about 25,000,000 persons.

Among the cities which suffered most destruction are Stalingrad, Sevastopol, Kiev, Minsk, Odessa, Smolensk, Novgorod, Pskov, Orel, Kharkov, Voronezh, Rostov-on-Don, Stalino, and Leningrad.

As is evident from an official memorandum of the German command, the Nazi conspirators planned the complete annihilation of entire Soviet cities. In a completely secret order of the Chief of the Naval Staff (Staff Ia No. 1601/41, dated 29. IX. 1941) addressed only to Staff officers, it was said:

"The Führer has decided to erase from the face of the earth St. Petersburg. The existence of this large city will have no further interest after Soviet Russia is destroyed. Finland has also said that the existence of this city on her new border is not desirable from her point of view. The original request of the Navy that docks, harbor, etc. necessary for the fleet be preserved—is known to the Supreme Commander of the Military Forces, but the basic principles of carrying out operations against St. Petersburg do not make it possible to satisfy this request.

"It is proposed to approach near to the city and to destroy it with the aid of an artillery barrage from weapons of different calibers and with long air attacks....

"The problem of the life of the population and the provisioning of them is a problem which cannot and must not be decided by us.

"In this war . . . we are not interested in preserving even a part of the population of this large city."

The Germans destroyed 427 museums, among them the wealthy museums of Leningrad, Smolensk, Stalingrad, Novgorod, Poltava, and others.

In Pyatigorsk the art objects brought there from the Rostov museum were seized.

The losses suffered by the coal mining industry alone in the Stalin region amount to 2,000,000,000 rubles. There was colossal destruction of industrial establishments in Makerevka, Carlovka, Yenakievo, Konstantinovka, Mariupol, from which most of the machinery and factories were removed.

Stealing of huge dimensions and the destruction of industrial, cultural, and other property was typified in Kiev. More than 4,000,000 books, magazines, and manuscripts (many of which were very valuable and even unique) and a large number of artistic productions and valuables of different kinds were stolen and carried away.

Many valuable art productions were taken away from Riga.

The extent of the plunder of cultural valuables is evidenced by the fact that 100,000 valuable volumes and 70 cases of ancient periodicals and precious monographs were carried away by ROSENBERG'S staff alone.

Among further examples of these crimes are:

Wanton devastation of the city of Novgorod and of many historical and artistic monuments there. Wanton devastation and plunder of the city of Rovno and of its province. The destruction of the industrial, cultural, and other property in Odessa. The destruction of cities and villages in Soviet Karelia. The destruction in Estonia of cultural, industrial, and other buildings.

The destruction of medical and prophylactic institutes, the destruction of agriculture and industry in Lithuania, the destruction of cities in Latvia.

The Germans approached monuments of culture, dear to the Soviet people, with special hatred. They broke up the estate of the poet Pushkin in Mikhailovskoye, desecrating his grave, and destroying the neighboring villages and the Svyatogor monastery.

They destroyed the estate and museum of Leo Tolstoy, "Yasnaya Polyana," and desecrated the grave of the great writer. They destroyed in Klin the museum of Tchaikovsky and in Penaty, the museum of the painter Repin and many others.

The Nazi conspirators destroyed 1,670 Greek Orthodox churches, 237 Roman Catholic churches, 67 chapels, 532 synagogues, etc. They

broke up, desecrated, and senselessly destroyed also the most valuable monuments of the Christian Church, such as Kievo-Pecherskaya Lavra, Novy Jerusalem in the Istrin region, and the most ancient monasteries and churches.

Destruction in Estonia of cultural, industrial, and other premises: burning down of many thousands of residential buildings; removal of 10,000 works of art; destruction of medical and prophylactic institutions; plunder and removal to Germany of immense quantities of agricultural stock including horses, cows, pigs, poultry, beehives, and agricultural machines of all kinds.

Destruction of agriculture, enslavement of peasants, and looting of stock and produce in Lithuania.

In the Latvian Republic destruction of the agriculture by the looting of all stock, machinery, and produce.

The result of this policy of plunder and destruction was to lay waste the land and cause utter desolation.

The overall value of the material loss which the U.S.S.R. has borne, is computed to be 679,000,000,000 rubles, in state prices of 1941.

Following the occupation of Czechoslovakia on 15 March 1939 the defendants seized and stole large stocks of raw materials, copper, tin, iron, cotton, and food; caused to be taken to Germany large amounts of railway rolling stock, and many engines, carriages, steam vessels, and trolley buses; plundered libraries, laboratories, and art museums of books, pictures, objects of art, scientific apparatus, and furniture; stole all gold reserves and foreign exchange of Czechoslovakia, including 23,000 kilograms of gold of a nominal value of £ 5,265,000; fraudulently acquired control and thereafter looted the Czech banks and many Czech industrial enterprises; and otherwise stole, looted, and misappropriated Czechoslovak public and private property. The total sum of defendants' economic spoliation of Czechoslovakia from 1938 to 1945 is estimated at 200,000,000,000 Czechoslovak crowns.

(*F*) THE EXACTION OF COLLECTIVE PENALTIES

The Germans pursued a systematic policy of inflicting, in all the occupied countries, collective penalties, pecuniary and otherwise, upon the population for acts of individuals for which it could not be regarded as collectively responsible; this was done at many places, including Oslo, Stavanger, Trondheim, and Rogaland.

Similar instances occurred in France, among others in Dijon, Nantes, and as regards the Jewish population in the occupied ter-

ritories. The total amount of fines imposed on French communities add up to 1,157,179,484 francs made up as follows:

A fine on the Jewish population	1,000,000,000
Various fines	157,179,484

These acts violated Article 50, Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and Article 6 (*b*) of the Charter.

(G) WANTON DESTRUCTION OF CITIES, TOWNS, AND VILLAGES AND DEVASTATION NOT JUSTIFIED BY MILITARY NECESSITY

The defendants wantonly destroyed cities, towns, and villages and committed other acts of devastation without military justification or necessity. These acts violated Articles 46 and 50 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and Article 6 (*b*) of the Charter.

Particulars by way of example only and without prejudice to the production of evidence of other cases are as follows:

1. Western Countries:

In March 1941, part of Lofoten in Norway was destroyed.

In April 1942, the town of Telerag in Norway was destroyed.

Entire villages were destroyed in France, among others Oradour-sur-Glane, Saint-Nizier and, in the Vercors, La Mure, Vassieux, La Chapelle en Vercors. The town of Saint Dié was burnt down and destroyed. The Old Port District of Marseilles was dynamited in the beginning of 1943 and resorts along the Atlantic and the Mediterranean coasts, particularly the town of Sanary, were demolished.

In Holland there was most widespread and extensive destruction, not justified by military necessity, including the destruction of harbors, locks, dikes, and bridges: immense devastation was also caused by inundations which equally were not justified by military necessity.

2. Eastern Countries:

In the Eastern Countries the defendants pursued a policy of wanton destruction and devastation: some particulars of this (without prejudice to the production of evidence of other cases) are set out above under the heading "Plunder of Public and Private Property".

In Greece the villages of Amelofito, Kliston, Kizonia, Messovunos, Selli, Ano-Kerzilion, and Kato-Kerzilion were utterly destroyed.

In Yugoslavia on 15 August 1941, the German military command officially announced that the village of Skela was burned to the ground and the inhabitants killed on the order of the command.

On the order of the Field Commander Hoersterberg a punitive expedition from the SS troops and the field police destroyed the villages of Machkovats, and Kriva Reka in Serbia and all the inhabitants were killed.

General Fritz Neidhold (369 Infantry Division) on 11 September 1944, gave an order to destroy the villages of Zagniezde and Udora, hanging all the men and driving away all the women and children.

In Czechoslovakia the Nazi conspirators also practiced the senseless destruction of populated places. Lezaky and Lidice were burned to the ground and the inhabitants killed.

(*H*) CONSCRIPTION OF CIVILIAN LABOR

Throughout the occupied territories the defendants conscripted and forced the inhabitants to labor and requisitioned their services for purposes other than meeting the needs of the armies of occupation and to an extent far out of proportion to the resources of the countries involved. All the civilians so conscripted were forced to work for the German war effort. Civilians were required to register and many of those who registered were forced to join the Todt Organization and the Speer Legion, both of which were semi-military organizations involving some military training. These acts violated Articles 46 and 52 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and Article 6 (b) of the Charter.

Particulars, by way of example only and without prejudice to the production of evidence of other cases, are as follows:

1. Western Countries:

In France, from 1942 to 1944, 963,813 persons were compelled to work in Germany and 737,000 to work in France for the German Army.

In Luxembourg in 1944 alone, 2,500 men and 500 girls were conscripted for forced labor.

2. Eastern Countries:

Of the large number of citizens of the Soviet Union and of Czechoslovakia referred to under Count Three VIII (B) 2 above many were so conscripted for forced labor.

(*I*) FORCING CIVILIANS OF OCCUPIED TERRITORIES TO SWEAR ALLEGIANCE TO A HOSTILE POWER

Civilians who joined the Speer Legion, as set forth in paragraph (*H*) above, were required, under threat of depriving them of food, money, and identity papers, to swear a solemn oath acknowledging unconditional obedience to Adolf Hitler, the Führer of Germany, which was to them a hostile power.

In Lorraine, civil servants were obliged, in order to retain their positions, to sign a declaration by which they acknowledged the "return of their country to the Reich", pledged themselves to obey without reservation the orders of their chiefs and put themselves "at the active service of the Führer and the Great National Socialist Germany".

A similar pledge was imposed on Alsatian civil servants by threat of deportation or internment.

These acts violated Article 45 of the Hague Regulations, 1907, the laws and customs of war, the general principles of international law, and Article 6 (*b*) of the Charter.

(*J*) GERMANIZATION OF OCCUPIED TERRITORIES

In certain occupied territories purportedly annexed to Germany the defendants methodically and pursuant to plan endeavored to assimilate those territories politically, culturally, socially, and economically into the German Reich. The defendants endeavored to obliterate the former national character of these territories. In pursuance of these plans and endeavors, the defendants forcibly deported inhabitants who were predominantly non-German and introduced thousands of German colonists.

This plan included economic domination, physical conquest, installation of puppet governments, purported *de jure* annexation and enforced conscription into the German Armed Forces.

This was carried out in most of the occupied countries including: Norway, France (particularly in the Departments of Upper Rhine, Lower Rhine, Moselle, Ardennes, Aisne, Nord, Meurthe and Moselle), Luxembourg, the Soviet Union, Denmark, Belgium, and Holland.

In France in the Departments of Aisne, Nord, Meurthe and Moselle, and especially in that of Ardennes, rural properties were seized by a German state organization which tried to have them exploited under German direction; the landowners of these exploitations were dispossessed and turned into agricultural laborers.

In the Department of Upper Rhine, Lower Rhine, and Moselle, the methods of Germanization were those of annexation followed by conscription.

1. From the month of August 1940, officials who refused to take the oath of allegiance to the Reich were expelled. On 21 September expulsions and deportation of populations began and on 22 November 1940, more than 70,000 Lorrainers or Alsatians were driven into the south zone of France. From 31 July 1941 onwards, more than 100,000 persons were deported into the eastern regions of the Reich or to Poland. All the property of the deportees or expelled persons was confiscated. At the same time, 80,000 Germans coming from the Saar or from Westphalia were installed in Lorraine and 2,000 farms belonging to French people were transferred to Germans.

2. From 2 January 1942, all the young people of the Departments of Upper Rhine and Lower Rhine, aged from 10 to 18 years, were incorporated in the Hitler Youth. The same thing was done in Moselle from 4 August 1942. From 1940 all the French schools were closed, their staffs expelled, and the German school system was introduced in the three Departments.

3. On the 28 September 1940, an order applicable to the Department of Moselle ordained the Germanization of all the surnames and Christian names which were French in form. The same thing was done from 15 January 1943, in the Departments of Upper Rhine and Lower Rhine.

4. Two orders from 23 to 24 August 1942 imposed by force German nationality on French citizens.

5. On 8 May 1941, for Upper Rhine and Lower Rhine, 23 April 1941, for Moselle, orders were promulgated enforcing compulsory labor service on all French citizens of either sex aged from 17 to 25 years. From 1 January 1942 for young men and from 26 January 1942 for young girls, national labor service was effectively organized in Moselle. It was from 27 August 1942 in Upper Rhine and in Lower Rhine for young men only. The classes 1940, 1941, 1942 were called up.

6. These classes were retained in the Wehrmacht on the expiration of their time and labor service. On 19 August 1942, an order instituted compulsory military service in Moselle. On 25 August 1942, the classes 1940-44 were called up in three departments. Conscription was enforced by the German authorities in conformity with the provisions of German legislation. The first revision boards took place from 3 September 1942. Later in Upper Rhine and Lower Rhine new levies were effected everywhere on classes 1928 to 1939 inclusive. The French people who refused to obey these laws were considered as deserters and their families were deported, while their property was confiscated.

These acts violated Articles 43, 46, 55, and 56 of the Hague Regulations, 1907, the laws and customs of war, the general principles

of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and Article 6 (b) of the Charter.

IX. Individual, group and organization responsibility for the offense stated in Count Three

Reference is hereby made to Appendix A of this Indictment for a statement of the responsibility of the individual defendants for the offense set forth in this Count Three of the Indictment. Reference is hereby made to Appendix B of this Indictment for a statement of the responsibility of the groups and organizations named herein as criminal groups and organizations for the offense set forth in this Count Three of the Indictment.

COUNT FOUR—CRIMES AGAINST HUMANITY

(Charter, Article 6, especially 6 (c))

X. Statement of the Offense

All the defendants committed Crimes against Humanity during a period of years preceding 8 May 1945 in Germany and in all those countries and territories occupied by the German armed forces since 1 September 1939 and in Austria and Czechoslovakia and in Italy and on the High Seas.

All the defendants, acting in concert with others, formulated and executed a common plan or conspiracy to commit Crimes against Humanity as defined in Article 6 (c) of the Charter. This plan involved, among other things, the murder and persecution of all who were or who were suspected of being hostile to the Nazi Party and all who were or who were suspected of being opposed to the common plan alleged in Count One.

The said Crimes against Humanity were committed by the defendants and by other persons for whose acts the defendants are responsible (under Article 6 of the Charter) as such other persons, when committing the said War Crimes, performed their acts in execution of a common plan and conspiracy to commit the said War Crimes, in the formulation and execution of which plan and conspiracy all the defendants participated as leaders, organizers, instigators, and accomplices.

These methods and crimes constituted violations of international conventions, of internal penal laws, of the general principles of criminal law as derived from the criminal law of all civilized nations and were involved in and part of a systematic course of conduct. The said acts were contrary to Article 6 of the Charter.

The Prosecution will rely upon the facts pleaded under Count Three as also constituting Crimes against Humanity.

(A) MURDER, EXTERMINATION, ENSLAVEMENT, DEPORTATION, AND OTHER INHUMANE ACTS COMMITTED AGAINST CIVILIAN POPULATIONS BEFORE AND DURING THE WAR

For the purposes set out above, the defendants adopted a policy of persecution, repression, and extermination of all civilians in Germany who were, or who were believed to be, or who were believed likely to become, hostile to the Nazi Government and the common plan or conspiracy described in Count One. They imprisoned such persons without judicial process, holding them in "protective custody" and concentration camps, and subjected them to persecution, degradation, despoilment, enslavement, torture, and murder.

Special courts were established to carry out the will of the conspirators; favored branches or agencies of the State and Party were permitted to operate outside the range even of nazified law and to crush all tendencies and elements which were considered "undesirable". The various concentration camps included Buchenwald, which was established in 1933, and Dachau, which was established in 1934. At these and other camps the civilians were put to slave labor, and murdered and ill-treated by divers means, including those set out in Count Three above, and these acts and policies were continued and extended to the occupied countries after 1 September 1939, and until 8 May 1945.

(B) PERSECUTION ON POLITICAL, RACIAL, AND RELIGIOUS GROUNDS IN EXECUTION OF AND IN CONNECTION WITH THE COMMON PLAN MENTIONED IN COUNT ONE

As above stated, in execution of and in connection with the common plan mentioned in Count One, opponents of the German Government were exterminated and persecuted. These persecutions were directed against Jews. They were also directed against persons whose political belief or spiritual aspirations were deemed to be in conflict with the aims of the Nazis.

Jews were systematically persecuted since 1933; they were deprived of their liberty, thrown into concentration camps where they were murdered and ill-treated. Their property was confiscated. Hundreds of thousands of Jews were so treated before 1 September 1939.

Since 1 September 1939, the persecution of the Jews was redoubled: millions of Jews from Germany and from the occupied

Western Countries were sent to the Eastern Countries for extermination.

Particulars by way of example and without prejudice to the production of evidence of other cases are as follows:

The Nazis murdered amongst others Chancellor Dollfuss, the Social Democrat Breitscheid, and the Communist Thälmann. They imprisoned in concentration camps numerous political and religious personages, for example Chancellor Schuschnigg and Pastor Niemöller.

In November 1938, by orders of the Chief of the Gestapo, anti-Jewish demonstrations all over Germany took place. Jewish property was destroyed, 30,000 Jews were arrested and sent to concentration camps and their property confiscated.

Under paragraph VIII (A), above, millions of the persons there mentioned as having been murdered and ill-treated were Jews.

Among other mass murders of Jews were the following:

At Kislovdosk all Jews were made to give up their property: 2,000 were shot in an anti-tank ditch at Mineraliye Vodi: 4,300 other Jews were shot in the same ditch.

60,000 Jews were shot on an island on the Dvina near Riga.
20,000 Jews were shot at Lutsk.
32,000 Jews were shot at Sarny.
60,000 Jews were shot at Kiev and Dniepropetrovsk.

Thousands of Jews were gassed weekly by means of gas-wagons which broke down from overwork.

As the Germans retreated before the Soviet Army they exterminated Jews rather than allow them to be liberated. Many concentration camps and ghettos were set up in which Jews were incarcerated and tortured, starved, subjected to merciless atrocities, and finally exterminated.

About 70,000 Jews were exterminated in Yugoslavia.

XI. Individual, Group and Organization Responsibility for the Offense Stated in Count Four

Reference is hereby made to Appendix A of this Indictment for a statement of the responsibility of the individual defendants for the offense set forth in this Count Four of the Indictment. Reference is hereby made to Appendix B of this Indictment for a statement of the responsibility of the groups and organizations named herein as criminal groups and organizations for the offense set forth in this Count Four of the Indictment.

Wherefore, this Indictment is lodged with the Tribunal in English, French, and Russian, each text having equal authenticity, and the charges herein made against the above named defendants are hereby presented to the Tribunal.

/s/ ROBERT H. JACKSON.
Acting on Behalf of the United States of America.

/s/ FRANÇOIS DE MENTHON.
Acting on Behalf of the French Republic.

/s/ HARTLEY SHAWCROSS.
Acting on Behalf of the United Kingdom of Great Britain and Northern Ireland.

/s/ R. RUDENKO.
Acting on Behalf of the Union of Soviet Socialist Republics.

Berlin, 6 October 1945.

APPENDIX A

Statement of Individual Responsibility for Crimes Set Out in Counts One, Two, Three, and Four

The statements hereinafter set forth following the name of each individual defendant constitute matters upon which the prosecution will rely *inter alia* as establishing the individual responsibility of the defendant according to Article 6 of the Charter of the Tribunal.

GÖRING:

The Defendant GÖRING between 1932 and 1945 was: A member of the Nazi Party, Supreme Leader of the SA, General in the SS, a member and President of the Reichstag, Minister of the Interior of Prussia, Chief of the Prussian Police and Prussian Secret State Police, Chief of the Prussian State Council, Trustee of the Four Year Plan, Reich Minister for Air, Commander-in-Chief of the Air Force, President of the Council of Ministers for the Defense of the Reich, member of the Secret Cabinet Council, head of the Hermann Göring Industrial Combine, and Successor Designate to Hitler. The Defendant GÖRING used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the accession to power of the

Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the military and economic preparation for war set forth in Count One of the Indictment; he participated in the planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment, and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

RIBBENTROP:

The Defendant RIBBENTROP between 1932 and 1945 was: A member of the Nazi Party, a member of the Nazi Reichstag, Advisor to the Führer on matters of foreign policy, representative of the Nazi Party for matters of foreign policy, special German delegate for disarmament questions, Ambassador Extraordinary, Ambassador in London, organizer and director of Dienststelle Ribbentrop, Reich Minister for Foreign Affairs, member of the Secret Cabinet Council, member of the Führer's political staff at general headquarters, and General in the SS. The Defendant RIBBENTROP used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators as set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances as set forth in Counts One and Two of the Indictment; in accordance with the Führer Principle he executed and assumed responsibility for the execution of the foreign policy plans of the Nazi conspirators set forth in Count One of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment, and the Crimes against Humanity set forth in Count Four of the Indictment, including more particularly the crimes against persons and property in occupied territories.

HESS:

The Defendant HESS between 1921 and 1941 was: A member of the Nazi Party, Deputy to the Führer, Reich Minister without Portfolio, member of the Reichstag, member of the Council of Ministers for the Defense of the Reich, member of the Secret Cabinet Council, Successor Designate to the Führer after the Defendant Göring, a

General in the SS and a General in the SA. The Defendant HESS used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the military, economic, and psychological preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; he participated in the preparation and planning of foreign policy plans of the Nazi conspirators set forth in Count One of the Indictment; he authorized, directed and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

KALTENBRUNNER:

The Defendant KALTENBRUNNER between 1932 and 1945 was: A member of the Nazi Party, a General in the SS, a member of the Reichstag, a General of the Police, State Secretary for Security in Austria in charge of the Austrian Police, Police Leader of Vienna, Lower and Upper Austria, Head of the Reich Main Security Office, and Chief of the Security Police and Security Service. The Defendant KALTENBRUNNER used the foregoing positions and his personal influence in such a manner that: He promoted the consolidation of control over Austria seized by the Nazi conspirators as set forth in Count One of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the Crimes against Humanity involved in the system of concentration camps.

ROSENBERG:

The Defendant ROSENBERG between 1920 and 1945 was: A member of the Nazi Party, Nazi member of the Reichstag, Reichsleiter in the Nazi Party for Ideology and Foreign Policy, the editor of the Nazi newspaper *Völkischer Beobachter* and of the *NS Monatshefte*, head of the Foreign Political Office of the Nazi Party, Special Delegate for the entire Spiritual and Ideological Training of the Nazi Party, Reich Minister for the Eastern Occupied Territories, organizer of the "Einsatzstab Rosenberg", a General in the SS and a General in the SA. The Defendant ROSENBERG used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He

developed, disseminated, and exploited the doctrinal techniques of the Nazi conspirators set forth in Count One of the Indictment; he promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the psychological preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

FRANK:

The Defendant FRANK between 1932 and 1945 was: A member of the Nazi Party, a General in the SS, a member of the Reichstag, Reich Minister without Portfolio, Reich Commissar for the Coordination of Justice, President of the International Chamber of Law and Academy of German Law, Chief of the Civil Administration of Lodz, Supreme Administrative Chief of the military district of West Prussia, Poznan, Lodz and Krakow, and Governor General of the occupied Polish territories. The Defendant FRANK used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the War Crimes and Crimes against Humanity involved in the administration of occupied territories.

BORMANN:

The Defendant BORMANN between 1925 and 1945 was: A member of the Nazi Party, member of the Reichstag, a member of the Staff of the Supreme Command of the SA, founder and head of "Hilfskasse der NSDAP", Reichsleiter, Chief of Staff Office of the Führer's Deputy, head of the Party Chancery, Secretary of the Führer, member of the Council of Ministers for the Defense of the Reich, organizer and head of the Volkssturm, a General in the SS and a General in the SA. The Defendant BORMANN used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation

of their control over Germany set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

FRICK:

The Defendant FRICK between 1932 and 1945 was: A member of the Nazi Party, Reichsleiter, General in the SS, member of the Reichstag, Reich Minister of the Interior, Prussian Minister of the Interior, Reich Director of Elections, General Plenipotentiary for the Administration of the Reich, head of the Central Office for the Reunification of Austria and the German Reich, Director of the Central Office for the Incorporation of Sudetenland, Memel, Danzig, the eastern incorporated territories, Eupen, Malmedy, and Moresnet, Director of the Central Office for the Protectorate of Bohemia and Moravia, the Governor General of Lower Styria, Upper Carinthia, Norway, Alsace, Lorraine and all other occupied territories and Reich Protector for Bohemia and Moravia. The Defendant FRICK used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he participated in the planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including more particularly the crimes against persons and property in occupied territories.

LEY:

The Defendant LEY between 1932 and 1945 was: A member of the Nazi Party, Reichsleiter, Nazi Party Organization Manager, member of the Reichstag, leader of the German Labor Front, a General in the SA, and Joint Organizer of the Central Inspection for the Care of Foreign Workers. The Defendant LEY used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany as set forth in Count One of the Indictment;

he promoted the preparation for war set forth in Count One of the Indictment; he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment, and in the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the War Crimes and Crimes against Humanity relating to the abuse of human beings for labor in the conduct of the aggressive wars.

SAUCKEL:

The Defendant SAUCKEL between 1921 and 1945 was: A member of the Nazi Party, Gauleiter and Reichsstatthalter of Thuringia, a member of the Reichstag, General Plenipotentiary for the Employment of Labor under the Four Year Plan, Joint Organizer with the Defendant Ley of the Central Inspection for the Care of Foreign Workers, a General in the SS and a General in the SA. The Defendant SAUCKEL used the foregoing positions and his personal influence in such a manner that: He promoted the accession to power of the Nazi conspirators set forth in Count One of the Indictment; he participated in the economic preparations for Wars of Aggression and Wars in Violation of Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the War Crimes and Crimes against Humanity involved in forcing the inhabitants of occupied countries to work as slave laborers in occupied countries and in Germany.

SPEER:

The Defendant SPEER between 1932 and 1945 was: A member of the Nazi Party, Reichsleiter, member of the Reichstag, Reich Minister for Armament and Munitions, Chief of the Organization Todt, General Plenipotentiary for Armaments in the Office of the Four Year Plan, and Chairman of the Armaments Council. The Defendant SPEER used the foregoing positions and his personal influence in such a manner that: He participated in the military and economic planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including more particularly the abuse and exploitation of human beings for forced labor in the conduct of aggressive war.

FUNK:

The Defendant FUNK between 1932 and 1945 was: A member of the Nazi Party, Economic Adviser of Hitler, National Socialist Deputy to the Reichstag, Press Chief of the Reich Government, State Secretary of the Reich Ministry of Public Enlightenment and Propaganda, Reich Minister of Economics, Prussian Minister of Economics, President of the German Reichsbank, Plenipotentiary for Economy, and member of the Ministerial Council for the Defense of the Reich. The Defendant FUNK used the foregoing positions, his personal influence, and his close connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; he participated in the military and economic planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including more particularly crimes against persons and property in connection with the economic exploitation of occupied territories.

SCHACHT:

The Defendant SCHACHT between 1932 and 1945 was: A member of the Nazi Party, a member of the Reichstag, Reich Minister of Economics, Reich Minister without Portfolio and President of the German Reichsbank. The Defendant SCHACHT used the foregoing positions, his personal influence, and his connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; and he participated in the military and economic plans and preparation of the Nazi conspirators for Wars of Aggression, and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment.

PAPEN:

The Defendant PAPEN between 1932 and 1945 was: A member of the Nazi Party, a member of the Reichstag, Reich Chancellor, Vice Chancellor under Hitler, special Plenipotentiary for the Saar, negotiator of the Concordat with the Vatican, Ambassador in Vienna and Ambassador in Turkey. The Defendant PAPEN used the

foregoing positions, his personal influence, and his close connection with the Führer in such manner that: He promoted the accession to power of the Nazi conspirators and participated in the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; and he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment.

KRUPP:

The Defendant KRUPP was between 1932 and 1945: Head of Friedrich KRUPP A.G., a member of the General Economic Council, President of the Reich Union of German Industry, and head of the Group for Mining and Production of Iron and Metals under the Reich Ministry of Economics. The Defendant KRUPP used the foregoing positions, his personal influence, and his connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparation for war set forth in Count One of the Indictment; he participated in the military and economic planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including more particularly the exploitation and abuse of human beings for labor in the conduct of aggressive wars.

NEURATH:

The Defendant NEURATH between 1932 and 1945 was: A member of the Nazi Party, a General in the SS, a member of the Reichstag, Reich Minister, Reich Minister of Foreign Affairs, President of the Secret Cabinet Council, and Reich Protector for Bohemia and Moravia. The Defendant NEURATH used the foregoing positions, his personal influence, and his close connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances

set forth in Counts One and Two of the Indictment; in accordance with the Führer Principle he executed, and assumed responsibility for the execution of the foreign policy plans of the Nazi conspirators set forth in Count One of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the crimes against persons and property in the occupied territories.

SCHIRACH:

The Defendant SCHIRACH between 1924 and 1945 was: A member of the Nazi Party, a member of the Reichstag, Reich Youth Leader on the Staff of the SA Supreme Command, Reichsleiter in the Nazi Party for Youth Education, Leader of Youth of the German Reich, head of the Hitler Jugend, Reich Defense Commissioner and Reichsstatthalter and Gauleiter of Vienna. The Defendant SCHIRACH used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the psychological and educational preparations for war and the militarization of Nazi dominated organizations set forth in Count One of the Indictment; and he authorized, directed, and participated in the Crimes against Humanity set forth in Count Four of the Indictment, including, particularly, anti-Jewish measures.

SEYSS-INQUART:

The Defendant SEYSS-INQUART between 1932 and 1945 was: A member of the Nazi Party, a General in the SS, State Councillor of Austria, Minister of the Interior and Security of Austria, Chancellor of Austria, a member of the Reichstag, a member of the Reich Cabinet, Reich Minister without Portfolio, Chief of the Civil Administration in South Poland, Deputy Governor-General of the Polish Occupied Territory, and Reich Commissar for the Occupied Netherlands. The Defendant SEYSS-INQUART used the foregoing positions and his personal influence in such a manner that: He promoted the seizure and the consolidation of control over Austria by the Nazi conspirators set forth in Count One of the Indictment; he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the

Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

STREICHER:

The Defendant STREICHER between 1932 and 1945 was: A member of the Nazi Party, a member of the Reichstag, a General in the SA, Gauleiter of Franconia, editor-in-chief of the anti-Semitic newspaper *Der Stürmer*. The Defendant STREICHER used the foregoing positions, his personal influence, and his close connection with the Führer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment: he authorized, directed, and participated in the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the incitement of the persecution of the Jews set forth in Count One and Count Four of the Indictment.

KEITEL:

The Defendant KEITEL between 1938 and 1945 was: Chief of the High Command of the German Armed Forces, member of the Secret Cabinet Council, member of the Council of Ministers for the Defense of the Reich, and Field Marshal. The Defendant KEITEL used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the military preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; he executed and assumed responsibility for the execution of the plans of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the War Crimes and Crimes against Humanity involved in the ill-treatment of prisoners of war and of the civilian population of occupied territories.

JODL:

The Defendant JODL between 1932 and 1945 was: Lt. Colonel, Army Operations Department of the Wehrmacht, Colonel, Chief of OKW Operations Department, Major-General, Chief of Staff OKW and Colonel-General. The Defendant JODL used the foregoing positions, his personal influence, and his close connection with the Führer

in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; he participated in the military planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

RAEDER:

The Defendant RAEDER between 1928 and 1945 was: Commander-in-Chief of the German Navy, Generaladmiral, Grossadmiral, Admiralinspekteur of the German Navy, and a member of the Secret Cabinet Council. The Defendant RAEDER used the foregoing positions and his personal influence in such a manner that: He promoted the preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; he executed, and assumed responsibility for the execution of the plans of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed, and participated in the war crimes set forth in Count Three of the Indictment, including particularly war crimes arising out of sea warfare.

DÖNITZ:

The Defendant DÖNITZ between 1932 and 1945 was: Commanding Officer of the Weddigen U-boat flotilla, Commander-in-Chief of the U-boat arm, Vice-Admiral, Admiral, Grossadmiral and Commander-in-Chief of the German Navy, Advisor to Hitler, and Successor to Hitler as head of the German Government. The Defendant DÖNITZ used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the preparations for war set forth in Count One of the Indictment; he participated in the military planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized,

directed, and participated in the War Crimes set forth in Count Three of the Indictment, including particularly the crimes against persons and property on the High Seas.

FRITZSCHE :

The Defendant FRITZSCHE between 1933 and 1945 was: A member of the Nazi Party, editor-in-chief of the official German news agency, "Deutsche Nachrichten Büro", head of the Wireless News Service and of the Home Press Division of the Reich Ministry of Propaganda, Ministerialdirektor of the Reich Ministry of Propaganda, head of the Radio Division of the Propaganda Department of the Nazi Party, and Plenipotentiary for the Political Organization of the Greater German Radio. The Defendant FRITZSCHE used the foregoing positions and his personal influence to disseminate and exploit the principal doctrines of the Nazi conspirators set forth in Count One of the Indictment, and to advocate, encourage and incite the commission of the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment including, particularly, anti-Jewish measures and the ruthless exploitation of occupied territories.

APPENDIX B

Statement of Criminality of Groups and Organizations

The statements hereinafter set forth, following the name of each group or organization named in the Indictment as one which should be declared criminal, constitute matters upon which the prosecution will rely *inter alia* as establishing the criminality of the group or organization :

DIE REICHSREGIERUNG (REICH CABINET)

"Die Reichsregierung (Reich Cabinet)" referred to in the Indictment consists of persons who were:

(i) Members of the ordinary cabinet after 30 January 1933, the date on which Hitler became Chancellor of the German Republic. The term "ordinary cabinet" as used herein means the Reich Ministers, i.e., heads of departments of the central Government; Reich Ministers without portfolio; State Ministers acting as Reich Ministers; and other officials entitled to take part in meetings of this cabinet.

(ii) Members of der Ministerrat für die Reichsverteidigung (Council of Ministers for the Defense of the Reich).

(iii) Members of der Geheimer Kabinettsrat (Secret Cabinet Council).

Under the Führer, these persons functioning in the foregoing capacities and in association as a group, possessed and exercised legislative, executive, administrative, and political powers and functions of a very high order in the system of German Government. Accordingly, they are charged with responsibility for the policies adopted and put into effect by the Government including those which comprehended and involved the commission of the crimes referred to in Counts One, Two, Three, and Four of the Indictment.

DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (LEADERSHIP CORPS OF THE NAZI PARTY)

"Das Korps der Politischen Leiter der Nationalsozialistischen Deutschen Arbeiterpartei (Leadership Corps of the Nazi Party)" referred to in the Indictment consists of persons who were at any time, according to common Nazi terminology, "Politischen Leiter" (Political Leaders) of any grade or rank.

The Politischen Leiter comprised the leaders of the various functional offices of the Party (for example, the Reichsleitung, or

Party Reich Directorate, and the Gauleitung, or Party Gau Directorate), as well as the territorial leaders of the Party (for example, the Gauleiter).

The Politischen Leiter were a distinctive and elite group within the Nazi Party proper and as such were vested with special prerogatives. They were organized according to the Leadership Principle and were charged with planning, developing and imposing upon their followers the policies of the Nazi Party. Thus the territorial leaders among them were called Hoheitsträger, or bearers of sovereignty, and were entitled to call upon and utilize the various Party formations when necessary for the execution of Party policies.

Reference is hereby made to the allegations in Count One of the Indictment showing that the Nazi Party was the central core of the common plan or conspiracy therein set forth. The Politischen Leiter, as a major power within the Nazi Party proper, and functioning in the capacities above described and in association as a group, joined in the common plan or conspiracy, and accordingly share responsibility for the crimes set forth in Counts One, Two, Three, and Four of the Indictment.

The prosecution expressly reserves the right to request, at any time before sentence is pronounced, that Politische Leiter of subordinate grades or ranks or of other types or classes, to be specified by the Prosecution, be excepted from further proceedings in this Case No. 1, but without prejudice to other proceedings or actions against them.

DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (COMMONLY KNOWN AS THE SS) INCLUDING DER SICHERHEITSDIENST (COMMONLY KNOWN AS THE SD)

"Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SS) including Der Sicherheitsdienst (commonly known as the SD)" referred to in the Indictment consists of the entire corps of the SS and all offices, departments, services, agencies, branches, formations, organizations, and groups of which it was at any time comprised or which were at any time integrated in it, including but not limited to, the Allgemeine SS, the Waffen SS, the SS Totenkopf Verbände, SS Polizei Regimente, and the Sicherheitsdienst des Reichsführers-SS (commonly known as the SD).

The SS, originally established by Hitler in 1925 as an elite section of the SA to furnish a protective guard for the Führer and Nazi Party leaders, became an independent formation of the Nazi Party in 1934 under the leadership of the Reichsführer-SS, Heinrich

Himmler. It was composed of voluntary members, selected in accordance with Nazi biological, racial, and political theories, completely indoctrinated in Nazi ideology and pledged to uncompromising obedience to the Führer. After the accession of the Nazi conspirators to power, it developed many departments, agencies, formations, and branches and extended its influence and control over numerous fields of Governmental and Party activity. Through Heinrich Himmler, as Reichsführer-SS and Chief of the German Police, agencies and units of the SS and of the Reich were joined in operation to form a unified repressive police force. The Sicherheitsdienst des Reichsführers-SS (commonly known as the SD), a department of the SS, was developed into a vast espionage and counter-intelligence system which operated in conjunction with the Gestapo and criminal police in detecting, suppressing and eliminating tendencies, groups and individuals deemed hostile or potentially hostile to the Nazi Party, its leaders, principles and objectives, and eventually was combined with the Gestapo and criminal police in a single security police department, the Reich Main Security Office.

Other branches of the SS developed into an armed force and served in the wars of aggression referred to in Counts One and Two of the Indictment. Through other departments and branches the SS controlled the administration of concentration camps and the execution of Nazi racial, biological, and resettlement policies. Through its numerous functions and activities it served as the instrument for insuring the domination of Nazi ideology and protecting and extending the Nazi regime over Germany and occupied territories. It thus participated in and is responsible for the crimes referred to in Counts One, Two, Three, and Four of the Indictment.

DIE GEHEIME STAATSPOLIZEI (SECRET STATE POLICE, COMMONLY KNOWN AS THE GESTAPO)

"Die Geheime Staatspolizei (Secret State Police, commonly known as the Gestapo)" referred to in the Indictment consists of the headquarters, departments, offices, branches, and all the forces and personnel of the Geheime Staatspolizei organized or existing at any time after 30 January 1933, including the Geheime Staatspolizei of Prussia and equivalent secret or political police forces of the Reich and the components thereof.

The Gestapo was created by the Nazi conspirators immediately after their accession to power, first in Prussia by the Defendant GÖRING and shortly thereafter in all other states in the Reich. These separate secret and political police forces were developed into a centralized, uniform organization operating through a central headquarters and through a network of regional offices in Germany

and in occupied territories. Its officials and operatives were selected on the basis of unconditional acceptance of Nazi ideology, were largely drawn from members of the SS, and were trained in SS and SD schools. It acted to suppress and eliminate tendencies, groups, and individuals deemed hostile or potentially hostile to the Nazi Party, its leaders, principles, and objectives, and to repress resistance and potential resistance to German control in occupied territories. In performing these functions it operated free from legal control, taking any measures it deemed necessary for the accomplishment of its missions.

Through its purposes, activities, and the means it used, it participated in and is responsible for the commission of the crimes set forth in Counts One, Two, Three, and Four of the Indictment.

DIE STURMABTEILUNGEN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (COMMONLY KNOWN AS THE SA)

"Die Sturmabteilungen der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SA)" referred to in the Indictment was a formation of the Nazi Party under the immediate jurisdiction of the Führer, organized on military lines, whose membership was composed of volunteers serving as political soldiers of the Party. It was one of the earliest formations of the Nazi Party and the original guardian of the National Socialist movement. Founded in 1921 as a voluntary militant formation, it was developed by the Nazi conspirators before their accession to power into a vast private army and utilized for the purpose of creating disorder, and terrorizing and eliminating political opponents. It continued to serve as an instrument for the physical, ideological, and military training of Party members and as a reserve for the German Armed Forces. After the launching of the wars of aggression, referred to in Counts One and Two of the Indictment, the SA not only operated as an organization for military training but provided auxiliary police and security forces in occupied territories, guarded prisoner-of-war camps and concentration camps and supervised and controlled persons forced to labor in Germany and occupied territories.

Through its purposes and activities and the means it used, it participated in and is responsible for the commission of the crimes set forth in Counts One, Two, Three, and Four of the Indictment.

GENERAL STAFF AND HIGH COMMAND OF THE GERMAN ARMED FORCES

The "General Staff and High Command of the German Armed Forces" referred to in the Indictment consist of those individuals who between February 1938 and May 1945 were the highest com-

manders of the Wehrmacht, the Army, the Navy, and the Air Forces. The individuals comprising this group are the persons who held the following appointments:

Oberbefehlshaber der Kriegsmarine (Commander in Chief of the Navy);

Chef (and, formerly, Chef des Stabes) der Seekriegsleitung (Chief of Naval War Staff);

Oberbefehlshaber des Heeres (Commander in Chief of the Army);

Chef des Generalstabes des Heeres (Chief of the General Staff of the Army);

Oberbefehlshaber der Luftwaffe (Commander in Chief of the Air Force);

Chef des Generalstabes der Luftwaffe (Chief of the General Staff of the Air Force);

Chef des Oberkommandos der Wehrmacht (Chief of the High Command of the Armed Forces);

Chef des Führungsstabes des Oberkommandos der Wehrmacht (Chief of the Operations Staff of the High Command of the Armed Forces);

Stellvertretender Chef des Führungsstabes des Oberkommandos der Wehrmacht (Deputy Chief of the Operations Staff of the High Command of the Armed Forces);

Commanders-in-Chief in the field, with the status of Oberbefehlshaber, of the Wehrmacht, Navy, Army, Air Force.

Functioning in such capacities and in association as a group at a highest level in the German Armed Forces Organization, these persons had a major responsibility for the planning, preparation, initiation, and waging of illegal wars as set forth in Counts One and Two of the Indictment and for the War Crimes and Crimes against Humanity involved in the execution of the common plan or conspiracy set forth in Counts Three and Four of the Indictment.

APPENDIX C

Charges and Particulars of Violations of International Treaties, Agreements, and Assurances Caused by the Defendants in the Course of Planning, Preparing, and Initiating the Wars

I

CHARGE: *Violation of the Convention for the Pacific Settlement of International Disputes, signed at The Hague, 29 July 1899.*

PARTICULARS: In that Germany did, by force and arms, on the dates specified in Column 1, invade the territory of the Sovereigns specified in Column 2, respectively, without first having attempted to settle its disputes with said Sovereigns by pacific means.

Column 1	*Column 2*
6 April 1941	Kingdom of Greece
6 April 1941	Kingdom of Yugoslavia

II

CHARGE: *Violation of the Convention for the Pacific Settlement of International Disputes, signed at The Hague, 18 October 1907.*

PARTICULARS: In that Germany did, on or about the dates specified in Column 1, by force of arms invade the territory of the Sovereigns specified in Column 2, respectively, without having first attempted to settle its dispute with said Sovereigns by pacific means.

Column 1	*Column 2*
1 September 1939	Republic of Poland
9 April 1940	Kingdom of Norway
9 April 1940	Kingdom of Denmark
10 May 1940	Grand Duchy of Luxembourg
10 May 1940	Kingdom of Belgium
10 May 1940	Kingdom of the Netherlands
22 June 1941	Union of Soviet Socialist Republics

III

CHARGE: *Violation of Hague Convention III Relative to the Opening of Hostilities, Signed 18 October 1907.*

PARTICULARS: In that Germany did, on or about the dates specified in Column 1, commence hostilities against the Countries specified in Column 2, respectively, without previous warning in the form of a reasoned declaration of war or an ultimatum with conditional declaration of war.

Column 1	*Column 2*
1 September 1939	Republic of Poland
9 April 1940	Kingdom of Norway
9 April 1940	Kingdom of Denmark
10 May 1940	Kingdom of Belgium
10 May 1940	Kingdom of the Netherlands
10 May 1940	Grand Duchy of Luxembourg
22 June 1941	Union of Soviet Socialist Republics

IV

CHARGE: *Violation of Hague Convention V Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, signed 18 October 1907.*

PARTICULARS: In that Germany did, on or about the dates specified in Column 1, by force and arms of its military forces, cross into, invade, and occupy the territories of the Sovereigns specified in Column 2, respectively, then and thereby violating the neutrality of said Sovereigns.

Column 1	*Column 2*
9 April 1940	Kingdom of Norway
9 April 1940	Kingdom of Denmark
10 May 1940	Grand Duchy of Luxembourg
10 May 1940	Kingdom of Belgium
10 May 1940	Kingdom of the Netherlands
22 June 1941	Union of Soviet Socialist Republics

V

CHARGE: *Violation of the Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles, 28 June 1919, known as the Versailles Treaty.*

PARTICULARS: (1) In that Germany did, on and after 7 March 1936, maintain and assemble armed forces and maintain and construct military fortifications in the demilitarized zone of the Rhineland in violation of the provisions of Articles 42 to 44 of the Treaty of Versailles.

(2) In that Germany did, on or about 13 March 1938, annex Austria into the German Reich in violation of the provisions of Article 80 of the Treaty of Versailles.

(3) In that Germany did, on or about 22 March 1939, incorporate the district of Memel into the German Reich in violation of the provisions of Article 99 of the Treaty of Versailles.

(4) In that Germany did, on or about 1 September 1939, incorporate the Free City of Danzig into the German Reich in violation of the provisions of Article 100 of the Treaty of Versailles.

(5) In that Germany did, on or about 16 March 1939, incorporate the Provinces of Bohemia and Moravia, formerly part of Czechoslovakia, into the German Reich in violation of the provisions of Article 81 of the Treaty of Versailles.

(6) In that Germany did, at various times in March 1935 and thereafter, repudiate various parts of Part V, Military, Naval, and Air Clauses of the Treaty of Versailles, by creating an air force,

by use of compulsory military service, by increasing the size of the army beyond treaty limits, and by increasing the size of the navy beyond treaty limits.

VI

CHARGE: *Violation of the Treaty between the United States and Germany Restoring Friendly Relations, signed at Berlin, 25 August 1921.*

PARTICULARS: In that Germany did, at various times in March 1935 and thereafter, repudiate various parts of Part V, Military, Naval, and Air Clauses of the Treaty between the United States and Germany Restoring Friendly Relations by creating an air force, by use of compulsory military service, by increasing the size of the army beyond treaty limits, and by increasing the size of the navy beyond treaty limits.

VII

CHARGE: *Violation of the Treaty of Mutual Guarantee between Germany, Belgium, France, Great Britain, and Italy, done at Locarno, 16 October 1925.*

PARTICULARS: (1) In that Germany did, on or about 7 March 1936, unlawfully send armed forces into the Rhineland demilitarized zone of Germany, in violation of Article 1 of the Treaty of Mutual Guarantee.

(2) In that Germany did, in or about March 1936, and thereafter, unlawfully maintain armed forces in the Rhineland demilitarized zone of Germany, in violation of Article 1 of the Treaty of Mutual Guarantee.

(3) In that Germany did, on or about 7 March 1936, and thereafter, unlawfully construct and maintain fortifications in the Rhineland demilitarized zone of Germany, in violation of Article 1 of the Treaty of Mutual Guarantee.

(4) In that Germany did, on or about 10 May 1940, unlawfully attack and invade Belgium, in violation of Article 2 of the Treaty of Mutual Guarantee.

(5) In that Germany did, on or about 10 May 1940, unlawfully attack and invade Belgium, without first having attempted to settle its dispute with Belgium by peaceful means, in violation of Article 3 of the Treaty of Mutual Guarantee.

VIII

CHARGE: *Violation of the Arbitration Treaty between Germany and Czechoslovakia, done at Locarno, 16 October 1925.*

PARTICULARS: In that Germany did, on or about 15 March 1939, unlawfully by duress and threats of military might force Czechoslovakia to deliver the destiny of Czechoslovakia and its inhabitants into the hands of the Führer and Reichschancellor of Germany without having attempted to settle its dispute with Czechoslovakia by peaceful means.

IX

CHARGE: *Violation of the Arbitration Convention between Germany and Belgium, done at Locarno, 16 October 1925.*

PARTICULARS: In that Germany did, on or about 10 May 1940, unlawfully attack and invade Belgium without first having attempted to settle its dispute with Belgium by peaceful means.

X

CHARGE: *Violation of the Arbitration Treaty between Germany and Poland, done at Locarno, 16 October 1925.*

PARTICULARS: In that Germany did, on or about 1 September 1939, unlawfully attack and invade Poland without first having attempted to settle its dispute with Poland by peaceful means.

XI

CHARGE: *Violation of Convention of Arbitration and Conciliation entered into between Germany and the Netherlands on 20 May 1926.*

PARTICULARS: In that Germany, without warning, and notwithstanding its solemn covenant to settle by peaceful means all disputes of any nature whatever which might arise between it and the Netherlands which were not capable of settlement by diplomacy and which had not been referred by mutual agreement to the Permanent Court of International Justice, did, on or about 10 May 1940, with a military force, attack, invade, and occupy the Netherlands, thereby violating its neutrality and territorial integrity and destroying its sovereign independence.

XII

CHARGE: *Violation of Convention of Arbitration and Conciliation entered into between Germany and Denmark on 2 June 1926.*

PARTICULARS: In that Germany, without warning, and notwithstanding its solemn covenant to settle by peaceful means all disputes of any nature whatever which might arise between it and Denmark which were not capable of settlement by diplomacy and

which had not been referred by mutual agreement to the Permanent Court of International Justice, did, on or about 9 April 1940, with a military force, attack, invade, and occupy Denmark, thereby violating its neutrality and territorial integrity and destroying its sovereign independence.

XIII

CHARGE: *Violation of Treaty between Germany and other Powers providing for Renunciation of War as an Instrument of National Policy, signed at Paris 27 August 1928, known as the Kellogg-Briand Pact.*

PARTICULARS: In that Germany did, on or about the dates specified in Column 1, with a military force, attack the Sovereigns specified in Column 2, respectively, and resort to war against such Sovereigns, in violation of its solemn declaration condemning recourse to war for the solution of international controversies, its solemn renunciation of war as an instrument of national policy in its relations with such Sovereigns, and its solemn covenant that settlement or solution of all disputes or conflicts of whatever nature or origin arising between it and such Sovereigns should never be sought except by pacific means.

Column 1	*Column 2*
1 September 1939	Republic of Poland
9 April 1940	Kingdom of Norway
9 April 1940	Kingdom of Denmark
10 May 1940	Kingdom of Belgium
10 May 1940	Grand Duchy of Luxembourg
10 May 1940	Kingdom of the Netherlands
6 April 1941	Kingdom of Greece
6 April 1941	Kingdom of Yugoslavia
22 June 1941	Union of Soviet Socialist Republics
11 December 1941	United States of America

XIV

CHARGE: *Violation of Treaty of Arbitration and Conciliation entered into between Germany and Luxembourg on 11 September 1929.*

PARTICULARS: In that Germany, without warning, and notwithstanding its solemn covenant to settle by peaceful means all disputes which might arise between it and Luxembourg which were not capable of settlement by diplomacy, did, on or about 10 May 1940, with a military force, attack, invade, and occupy Luxembourg, thereby violating its neutrality and territorial integrity and destroying its sovereign independence.

XV

CHARGE: *Violation of the Declaration of Non-Aggression entered into between Germany and Poland on 26 January 1934.*

PARTICULARS: In that Germany proceeding to the application of force for the purpose of reaching a decision did, on or about 1 September 1939, at various places along the German-Polish frontier employ military forces to attack, invade, and commit other acts of aggression against Poland.

XVI

CHARGE: *Violation of German Assurance given on 21 May 1935 that the Inviolability and Integrity of the Federal State of Austria Would Be Recognized.*

PARTICULARS: In that Germany did, on or about 11 March 1938, at various points and places along the German-Austria frontier, with a military force and in violation of its solemn declaration and assurance, invade and annex to Germany the territory of the Federal State of Austria.

XVII

CHARGE: *Violation of Austro-German Agreement of 11 July 1936.*

PARTICULARS: In that Germany during the period from 12 February 1938 to 13 March 1938 did by duress and various aggressive acts, including the use of military force, cause the Federal State of Austria to yield up its sovereignty to the German State in violation of Germany's agreement to recognize the full sovereignty of the Federal State of Austria.

XVIII

CHARGE: *Violation of German Assurances given on 30 January 1937, 28 April 1939, 26 August 1939, and 6 October 1939 To Respect the Neutrality and Territorial Inviolability of the Netherlands.*

PARTICULARS: In that Germany, without warning, and without recourse to peaceful means of settling any considered differences did, on or about 10 May 1940, with a military force and in violation of its solemn assurances, invade, occupy, and attempt to subjugate the sovereign territory of the Netherlands.

XIX

CHARGE: *Violation of German Assurances given on 30 January 1937, 13 October 1937, 28 April 1939, 26 August 1939, and 6 October 1939 To Respect the Neutrality and Territorial Integrity and Inviolability of Belgium.*

PARTICULARS: In that Germany, without warning, did on or about 10 May 1940, with a military force and in violation of its solemn assurances and declarations, attack, invade, and occupy the sovereign territory of Belgium.

XX

CHARGE: *Violation of Assurances given on 11 March 1938 and 26 September 1938 to Czechoslovakia.*

PARTICULARS: In that Germany, on or about 15 March 1939 did, by establishing a Protectorate of Bohemia and Moravia under duress and by the threat of force, violate the assurance given on 11 March 1938 to respect the territorial integrity of the Czechoslovak Republic and the assurance given on 26 September 1938 that, if the so-called Sudeten territories were ceded to Germany, no further German territorial claims on Czechoslovakia would be made.

XXI

CHARGE: *Violation of the Munich Agreement and Annexes of 29 September 1938.*

PARTICULARS: (1) In that Germany on or about 15 March 1939, did by duress and the threat of military intervention force the Republic of Czechoslovakia to deliver the destiny of the Czech people and country into the hands of the Führer of the German Reich.

(2) In that Germany refused and failed to join in an international guarantee of the new boundaries of the Czechoslovakia state as provided for in Annex No. 1 to the Munich Agreement.

XXII

CHARGE: *Violation of the Solemn Assurances of Germany given on 3 September 1939, 28 April 1939, and 6 October 1939 Not To Violate the Independence or Sovereignty of the Kingdom of Norway.*

PARTICULARS: In that Germany, without warning did, on or about 9 April 1940, with its military and naval forces attack, invade, and commit other acts of aggression against the Kingdom of Norway.

XXIII

CHARGE: *Violation of German Assurances given on 28 April 1939 and 26 August 1939 To Respect the Neutrality and Territorial Inviolability of Luxembourg.*

PARTICULARS: In that Germany, without warning, and without recourse to peaceful means of settling any considered differences, did, on or about 10 May 1940, with a military force and in

violation of the solemn assurances, invade, occupy, and absorb into Germany the sovereign territory of Luxembourg.

XXIV

CHARGE: *Violation of the Treaty of Non-Aggression between Germany and Denmark, signed at Berlin, 31 May 1939.*

PARTICULARS: In that Germany without prior warning, did, on or about 9 April 1940, with its military forces, attack, invade, and commit other acts of aggression against the Kingdom of Denmark.

XXV

CHARGE: *Violation of Treaty of Non-Aggression entered into between Germany and U.S.S.R. on 23 August 1939.*

PARTICULARS: (1) In that Germany did, on or about 22 June 1941, employ military forces to attack and commit acts of aggression against the U.S.S.R.

(2) In that Germany without warning or recourse to a friendly exchange of views or arbitration did, on or about 22 June 1941, employ military forces to attack and commit acts of aggression against the U.S.S.R.

XXVI

CHARGE: *Violation of German Assurance given on 6 October 1939 To Respect the Neutrality and Territorial Integrity of Yugoslavia.*

PARTICULARS: In that Germany without prior warning did, on or about 6 April 1941, with its military forces attack, invade, and commit other acts of aggression against the Kingdom of Yugoslavia.

MOTION OF THE PROSECUTION FOR CORRECTING DISCREPANCIES IN THE INDICTMENT*

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

Motion as to Amendment of the Indictment

To The Honorable Tribunal:

WHEREAS

(1) Certain discrepancies (as set out in the attached schedule) have been discovered in the Indictment, as between the English, French, Russian, and German texts thereof;

(2) The Indictment was lodged with the Tribunal in English, French, and Russian, each text having equal authenticity;

(3) The Indictment was served on the defendants in the German language only;

The Prosecution respectfully submits the following MOTION:

That the Tribunal direct that the discrepancies in the Indictment specified in the attached schedule be rectified as between the respective texts of the Indictment by making the English, French, and Russian texts conform to the German text in each of the specified cases so far as the sense of the context permits.

/s/ ROBERT H. JACKSON
For the Government of the United States of America.

/s/ CHAMPETIER DE RIBES
Per CH. DUBOST
For the Provisional Government of France.

/s/ DAVID MAXWELL FYFE
For the Government of the United Kingdom of Great Britain and Northern Ireland.

/s/ R. RUDENKO
For the Government of the Union of Soviet Socialist Republics.

4th June, 1946.

* This motion was accepted by the Court at a meeting of the International Military Tribunal, 7 June 1946.

PLEAS OF INDIVIDUAL DEFENDANTS

All individual defendants, with the exception of MARTIN BORMANN who could not be located, in effect pleaded not guilty to the Indictment. The plea of ERNST KALTENBRUNNER was entered 10 December 1945; the pleas of the other defendants, 21 November 1945.

LETTER OF RESERVATION BY THE UNITED STATES PROSECUTOR IN REGARD TO WORDING OF THE INDICTMENT

6 October 1945

M. François de Menthon,
Sir Hartley Shawcross,
General R. A. Rudenko.

Dear Sirs:

In the Indictment of German War Criminals signed today, reference is made to Estonia, Latvia, Lithuania, and certain other territories as being within the area of the U.S.S.R. This language is proposed by Russia and is accepted to avoid the delay which would be occasioned by insistence on an alteration in the text. The Indictment is signed subject to this reservation and understanding:

I have no authority either to admit or to challenge on behalf of the United States of America, Soviet claims to sovereignty over such territories. Nothing, therefore, in this Indictment is to be construed as a recognition by the United States of such sovereignty or as indicating any attitude, either on the part of the United States or on the part of the undersigned, toward any claim to recognition of such sovereignty.

Respectfully submitted,
/s/ ROBERT H. JACKSON,
Chief of Counsel for the
United States.

To the Clerk or Recording Officer,
International Military Tribunal:

The representative of the United States has found it necessary to make certain reservations as to the possible bearing of certain language in the Indictment upon political questions which are considered to be irrelevant to the proceedings before this Tribunal. However, it is considered appropriate to disclose such reservations that they may not be unknown to the Tribunal in the event they should at any time be considered relevant. For that purpose, the foregoing copy is filed.

/s/ ROBERT H. JACKSON

ORDER OF THE TRIBUNAL REGARDING NOTICE TO INDIVIDUAL DEFENDANTS

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

The International Military Tribunal for the trial of the major war criminals having been duly constituted and an indictment having been lodged with the Tribunal by the Chief Prosecutors, in order to make fair provision for notice to defendants:

IT IS ORDERED that each individual defendant in custody shall receive, not less than 30 days before trial, a copy, translated into a language which he understands, of the documents set out in paragraph (a) of Rule 2 of the Rules of the Tribunal, in accordance with the terms of that paragraph.

Form of Notice to Individual Defendants

To the Defendants above named:

You and each of you is hereby notified that an indictment has been filed against you in the International Military Tribunal. A copy of this indictment and of the Charter constituting the International Military Tribunal are attached hereto. Your trial will take place at the Palace of Justice, Nuremberg, Germany, not less than 30 days from the service of the indictment upon you. The exact date will be made known to you later. Your attention is specifically directed to your right to counsel under Article 23 and Article 16 of the Charter and Rule 2 (d) of the Tribunal, a copy of which and a list of counsel are attached hereto for your information.

An officer has been designated by the Tribunal to deliver this Notice and accompanying documents to you and to confer with you with respect to the employment and designation of counsel.

For the International Military Tribunal

(no signature)
General Secretary

ORDER OF THE TRIBUNAL REGARDING NOTICE TO MEMBERS OF GROUPS AND ORGANIZATIONS

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

WHEREAS an indictment has been lodged with this Tribunal against the above named defendants:

AND WHEREAS such indictment shows that the Chief Prosecutors intend to ask this Tribunal:

(1) to find that certain of the defendants were members of DIE REICHSREGIERUNG (REICH CABINET); DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (LEADERSHIP CORPS OF THE NAZI PARTY); DIE SCHUTZSTAFFELN DER NATIONAL-SOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (commonly known as the "SS"), and including DER SICHERHEITSDIENST (commonly known as the "SD"); DIE GEHEIME STAATSPOLIZEI (SECRET STATE POLICE, commonly known as the "GESTAPO"); DIE STURMABTEILUNGEN DER NSDAP (commonly known as the "SA"); and the GENERAL STAFF and the HIGH COMMAND of the GERMAN ARMED FORCES, and

(2) to declare that said groups and organizations were criminal organizations

IT IS HEREBY ORDERED that notice shall be given to the members of such groups and organizations in the following form and manner:

(a) *Form of Notice*

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, RUDOLF HESS, JOACHIM VON RIBBENTROP, ROBERT LEY, WILHELM KEITEL, ERNST KALTENBRUNNER, ALFRED ROSENBERG, HANS FRANK, WILHELM FRICK, JULIUS STREICHER, WALTER FUNK, HJALMAR SCHACHT, GUSTAV KRUPP VON BOHLEN UND HALBACH, KARL DÖNITZ, ERICH RAEDER, BALDUR VON SCHIRACH, FRITZ SAUCKEL, ALFRED JODL, MARTIN BORMANN, FRANZ VON PAPEN, ARTHUR SEYSS-INQUART, ALBERT SPEER, CONSTANTIN VON NEURATH, and HANS FRITZSCHE, Individually and as Members of Any of the Following Groups or Organizations to Which They Respectively Belong, Namely: DIE REICHSREGIERUNG (REICH CABINET); DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (LEADERSHIP CORPS OF THE NAZI PARTY); DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (commonly known as the "SS") and including DER SICHERHEITSDIENST (commonly known as the "SD"); DIE GEHEIME STAATSPOLIZEI (SECRET STATE POLICE, commonly known as the "GESTAPO"); DIE STURMABTEILUNGEN DER NSDAP (commonly known as the "SA"); and the GENERAL STAFF and HIGH COMMAND of the GERMAN ARMED FORCES,

Defendants.

Notice is hereby given to all members of the following groups and organizations:

1. Die Reichsregierung, consisting of persons who were:
   a) Members of the ordinary cabinet after 30 January 1933. The term "ordinary cabinet" as used herein means the Reich Ministers; i. e., heads of departments of the central government; Reich Ministers without portfolio; State ministers acting as Reich Ministers; and other officials entitled to take part in meetings of this cabinet.
   b) Members of Der Ministerrat für die Reichsverteidigung.
   c) Members of Der Geheime Kabinettsrat.

2. Das Korps der Politischen Leiter der Nationalsozialistischen Deutschen Arbeiterpartei, consisting of persons who were at any time, according to common Nazi terminology, Politische Leiter of any grade or rank.
3. Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SS) and consisting of the entire corps of the SS and all offices, departments, services, agencies, branches, formations, organizations and groups of which it was at any time comprised or which at any time integrated in it, including but not limited to, the Allgemeine SS, the Waffen SS, the SS Totenkopf Verbände, SS Polizei Regimenter and the Sicherheitsdienst des Reichsführers-SS (commonly known as the SD).
4. Die Geheime Staatspolizei (commonly known as the Gestapo) consisting of the headquarters, departments, offices, branches, and all the forces and personnel of the Geheime Staatspolizei of Prussia and equivalent secret or political police forces of the Reich and the components thereof.
5. Die Sturmabteilungen der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SA).
6. The General Staff and High Command of the German Armed Forces, consisting of those individuals who between February 1938 and May 1945 were the highest commanders of the Wehrmacht, the Army, the Navy, and the Air Forces. The individuals comprising this group are the persons who held the following appointments:

Oberbefehlshaber der Kriegsmarine (Commander-in-Chief of the Navy)

Chef (and, formerly, Chef des Stabes) der Seekriegsleitung (Chief of Naval War Staff)

Oberbefehlshaber des Heeres (Commander-in-Chief of the Army)

Chef des Generalstabes der Luftwaffe (Chief of the General Staff of the Air Force)

Oberbefehlshaber der Luftwaffe (Commander-in-Chief of the Air Force)

Chef des Oberkommandos der Wehrmacht (Chief of the High Command of the Armed Forces)

Chef des Führungsstabes des Oberkommandos der Wehrmacht (Chief of the Operations Staff of the High Command of the Armed Forces)

Commanders-in-Chief in the field, with the status of Oberbefehlshaber of the Wehrmacht, Navy, Army, Air Force.

THAT such groups and organizations are accused by the Chief Prosecutors for the prosecution of major war criminals of being criminal organizations and this Tribunal has been asked by the Chief Prosecutors to declare said groups and organizations criminal.

THAT if any of such groups and organizations are found by this Tribunal to have been criminal in character members will be subject to trial and punishment on account of their membership in accordance with the provisions of the Charter of this Tribunal and upon any such trial the criminal character of the group or organization shall be considered proved and shall not be questioned.

THAT the issue of the criminal character of these groups and organizations will be tried commencing the 20th day of November 1945 at the Palace of Justice, Nuremberg, Germany.

THAT any person who acknowledges membership in any of the said groups or organizations may be entitled to apply to the Tribunal for leave to be heard by the Tribunal upon the question of the criminal character of the group or organization. Such application shall be made without delay, in writing, and addressed to the General Secretary, International Military Tribunal, Nuremberg, Germany.

THAT in the case of members of any of the said groups or organizations who

(i) may be in the custody of the prosecuting powers, such applications shall be handed to the Commanding Officer of the place where the said members are detained;

(ii) may not be in custody, such applications shall be handed to the nearest military unit.

THAT the Tribunal has power to allow or reject any such application. If the application is allowed, the Tribunal will direct in what manner the applicant shall be represented and heard.

THAT nothing contained in this notice shall be construed to confer immunity of any kind upon such applicants.

For the International Military Tribunal
(no signature)
General Secretary

(b) *Manner of Notice*

IT IS FURTHER ORDERED:

THAT publication in the German language be made throughout the zones of occupation in Germany over the radio, in newspapers and, if practicable, by the form of postings ordinarily employed by the military authorities in conveying information to the civilian population. Such radio and newspaper publications shall be made

once a week for four weeks and over a sufficient number of radio stations, in a sufficient number of newspapers or by posting in a sufficient number of places to give the widest possible dissemination throughout the occupied territory of the notice set forth in paragraph (a) above.

THAT publication in the German language be made wherever practicable in the prisoner of war camps in which Germans are imprisoned, in such manner as the officers commanding such camps may decide.

The appropriate occupation authorities are requested to cooperate with the General Secretary of the International Military Tribunal in making this publication and the General Secretary shall make written report to the Tribunal of the action taken.

ORDER OF THE TRIBUNAL REGARDING NOTICE TO DEFENDANT BORMANN

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

The International Military Tribunal having been duly constituted and an indictment having been lodged with the Tribunal by the Chief Prosecutors

AND one of the defendants, Martin Bormann, not having been found

IT IS ORDERED that notice be given said Martin Bormann in the following form and manner:

(a) *Form of Notice*

Take Notice:

Martin Bormann is charged with having committed Crimes against Peace, War Crimes, and Crimes against Humanity all as particularly set forth in an indictment which has been lodged with this Tribunal.

The indictment is available at the Palace of Justice, Nuremberg, Germany.

If Martin Bormann appears, he is entitled to be heard in person or by counsel.

If he fails to appear, he may be tried in his absence, commencing November 20, 1945 at the Palace of Justice, Nuremberg, Germany, and if found guilty the sentence pronounced upon him will, without further hearing, and subject to the orders of the Control Council for Germany, be executed whenever he is found.

By order of
The International Military Tribunal
(no signature)
General Secretary

(b) *Manner of Notice*

This notice shall be read in full once a week for four weeks over the radio, the first reading to be during the week of October 22, 1945. It shall also be published in four separate issues of a newspaper circulated in the home city of Martin Bormann.

The Orders and Forms of Notice above set forth have been adopted by the International Military Tribunal.

/s/ GEOFFREY LAWRENCE
President

October 18, 1945

Attest: /s/ HAROLD B. WILLEY
General Secretary

CERTIFICATES OF COMPLIANCE WITH ORDERS OF THE TRIBUNAL REGARDING NOTICE TO MEMBERS OF GROUPS AND ORGANIZATIONS AND TO DEFENDANT BORMANN

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS.

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

Declaration

I, Richard William Hurlstone Hortin, a Major in H. M. Army serving with the Control Commission for Germany (British Element) at Berlin, solemnly and sincerely declare as follows —

1. I make this Declaration in my capacity of Berlin Secretary of the International Military Tribunal.

2. Pursuant to the order of the International Military Tribunal as to publication of Notice No. 1 as to Nazi Organisations, I served a copy of the said notice on each of the four Allied Secretariats; at the same time I served on the four Allied Secretariats a copy of the said order and a copy of the order of the International Military Tribunal as to Martin Bormann. Service was effected by delivery by me personally of the said notice and orders to duly authorised persons of the said Allied Secretariats.

The order as to Martin Bormann states that publication must be made in four separate issues of a newspaper circulated in the home city of Martin Bormann. After full enquiries I ascertained that the last known place of residence of Martin Bormann was Berlin. A former place of residence was Mecklenburg. It was also believed that the birthplace was Halberstadt. I gave these details to the Soviet Secretariat. I also arranged for publication in Berlin newspapers and on the radio. Newspaper circulation in the Russian Zone normally extends to both Halberstadt and Mecklenburg.

3. As a result of careful enquiries I ascertained that a reasonable number of notices for the whole of the four Zones would be 200,000

and, in consultation with the Legal Division of the Office of the Military Government for Germany (United States) and with the French and Soviet Allied Secretariats, I arranged for the printing of this number of notices. At the same time I arranged for the printing of a similar number of notices to Martin Bormann. These two notices were both printed on the same sheet of paper and a copy is annexed hereto and marked "Exhibit I".

9,000 of these notices were distributed by me to the appropriate officers in the French, Soviet, British and American Sectors, namely 2,500 each for the American and Soviet Sectors and 2,000 each for the French and British Sectors. I am informed, and verily believe, that these notices were posted and exhibited in public places before midnight of the 27th October, 1945. 1,000 copies were retained by me as a reserve to be handed to Military authorities in the four Zones for reading and posting in P.O.W. Camps.

4. As to the remaining 190,000 of the said notices, 50,000 were handed personally by me to the Bureau of Information of the Soviet Military Administration in Germany. I arranged for the delivery of 50,000 to the Public Relations Branch of Control Commission for Germany (British Element) at Lübeck, Germany. I have made full and continuous enquiries and I am informed and verily believe that these notices were immediately distributed throughout the British Zone and through the channels which ensure the widest possible distribution.

I am informed by the Legal Division of the Office of Military Government for Germany (United States) that as previously arranged with me, they delivered 40,000 copies to the French Authorities at Baden-Baden. I am also informed by them and verily believe that the remaining 50,000 notices were handed by them to the appropriate United States Authorities for distribution through their Zone.

5. During the period October 20th to November 17th 1945 there have been four weekly publications in each of the four Zones of Germany of the said two notices in newspapers and over radio stations. The American, Soviet and British newspapers in Berlin have also carried the notices. Furthermore, in pursuance of the order of the International Military Tribunal, the said notices were handed to the appropriate Military Authorities of each of the four Zones for reading in Prisoner-of-War Camps and for such other form of publication as local Commanders might think proper within their own discretion.

6. Exhibits II, III and IV which are attached hereto, and marked by me, are certificates by the appropriate American, French and Soviet Authorities that the requirements of the said two orders of the International Military Tribunal have been fulfilled.

As to the British Zone, I have ascertained by enquiries from the said Public Relations Branch of the Control Commission for Germany (British Element) that the two notices have been widely distributed and publicised through the channels most appropriate for the purpose as stated in paragraph 4 of this my declaration. Furthermore I have similarly ascertained that appropriate action has been taken by British Military Authorities for reading and posting in Prisoner-of-War Camps wherever practicable.

"Exhibit V" attached hereto and marked by me is a certificate as to publication of the two notices in newspapers and on the radio in Berlin and in the British Zone of occupation.

7. I make this solemn declaration conscientiously believing the same to be true, and I declare that the information which I give therein has been obtained by me through official sources and from those persons whose duty it is to give such official information.

/s/ R. W. H. HORTIN
Major

Declared by the above-named
Richard William Hurlstone Hortin
This 17th day of November 1945
In my presence:

/s/ R. O. WILBERFORCE
Brigadier,
Deputy Chief,
Legal Division,
C. C. G. (B. E.).

Exhibit II. Dissemination in the American Zone

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

Certificate

I hereby certify that at the request of the above entitled tribunal, through Harold B. Willey, General Secretary, I have performed the following services in connection with publication, broadcast and posting of notices in the above entitled cause under order of the above entitled tribunal issued at Nuremberg, Germany, on or about 18 October 1945:

1. In cooperation with Major R. W. H. Hortin, Legal Division, Advance Headquarters, Control Commission for Germany (British Element), Berlin, on or about 23 October 1945, I arranged for the initial printing of 10,000 copies of the attached notice by the Ullstein Press, Berlin (Exhibit "I"). On 26 October 1945 I personally took delivery of 2,500 of the said notices and delivered them to Major E. K. Neumann, Chief Public Safety Officer, U. S. Headquarters, Berlin District, for posting in the U.S. Zone of Berlin. Major Neumann's indorsement to basic letter dated 27 October 1945 is attached as Exhibit "II A". From my personal knowledge the posters were posted throughout the U.S. Zone, Berlin, as stated by Major Neumann. The remaining 7,500 posters of the original 10,000 were delivered to Major Hortin for posting in the British, Soviet, and French sectors of Berlin. To my personal knowledge they were so posted.

2. On or about 26 October 1945 I arranged for the publication of 190,000 additional posters. Ninety thousand of these were personally delivered to me on 31 October 1945, and by me shipped to the Office of Military Government, U.S. Zone, Frankfurt, Germany, for posting in the U.S. Zone and the delivery of 40,000 to Headquarters, French Military Government at Baden-Baden, Germany, for posting in the French Zone. A copy of the cable of instruction sent to Headquarters, Office of Military Government, U. S. Zone, is attached and marked Exhibit "II B".

Exhibit I.
Copy of Notice to Members of Groups and Organizations and to Defendant Martin Bormann

PLATE I

BEKANNTMACHUNGEN

INTERNATIONALER MILITÄR-GERICHTSHOF

Nr. 1

DIE VEREINIGTEN STAATEN VON AMERIKA, DIE FRANZÖSISCHE REPUBLIK, DAS VEREINIGTE KÖNIGREICH VON GROSSBRITANNIEN UND NORD-IRLAND UND DIE UNION DER SOZIALISTISCHEN SOWJET-REPUBLIKEN

GEGEN

HERMANN WILHELM GÖRING, RUDOLF HESS, JOACHIM von RIBBENTROP, ROBERT LEY, WILHELM KEITEL, ERNST KALTENBRUNNER, ALFRED ROSENBERG, HANS FRANK, WILHELM FRICK, JULIUS STREICHER, WALTER FUNK, HJALMAR SCHACHT, GUSTAV KRUPP von BOHLEN und HALBACH, KARL DÖNITZ, ERICH RAEDER, BALDUR von SCHIRACH, FRITZ SAUCKEL, ALFRED JODL, MARTIN BORMANN, FRANZ von PAPEN, ARTUR SEYSS-INQUART, ALBERT SPEER, CONSTANTIN von NEURATH und HANS FRITZSCHE, als Einzelpersonen sowie als Mitglieder irgendwelcher der folgenden Gruppen oder Organisationen, denen sie etwa angehören, nämlich: DIE REICHSREGIERUNG, DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI, DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (allgemein als die „SS" bekannt) und einschließlich des SICHERHEITSDIENSTES (allgemein als der „SD" bekannt), der GEHEIMEN STAATSPOLIZEI (allgemein als „GESTAPO" bekannt), der STURMABTEILUNGEN DER N.S.D.A.P. (allgemein als die „SA" bekannt) und des GENERALSTABES und des OBERKOMMANDOS DER DEUTSCHEN WEHRMACHT, und zwar alle laut näheren Angaben in Anhang B.

DIE ANGEKLAGTEN.

Allen Mitgliedern der folgenden Gruppen und Organisationen wird hiermit bekanntgegeben:

1. Die Reichsregierung, die sich aus Personen zusammensetzte, die
   a) Mitglieder des ordentlichen Kabinetts nach dem 30. Januar 1933 waren. Die Bezeichnung „ordentliches Kabinett", wie hier gebraucht, umschließt die Reichsminister, d. h. die Abteilungsvorstände der Zentralregierung. Reichsminister ohne Portefeuille, Staatsminister als stellvertretende Reichsminister, und andere Beamte, die zur Teilnahme an Kabinettsitzungen berechtigt sind.
   b) Mitglieder des Ministerrates für die Reichsverteidigung waren.
   c) Mitglieder des Geheimen Kabinettsrates waren.
2. Das Korps der Politischen Leiter der Nationalsozialistischen Deutschen Arbeiterpartei, welches sich aus Personen zusammensetzte, die zu irgendeinem Zeitpunkte im Sinne der üblichen nazistischen Terminologie politische Leiter irgendwelchen Ranges oder Grades waren.
3. Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (allgemein als die „SS" bekannt), die sich aus dem gesamten Korps der SS und allen Stellen, Abteilungen, Dienststellen, Vertretungen, Zweigstellen, Verbänden, Organisationen und Gruppen zusammensetzten, aus denen es zu irgendeinem Zeitpunkte bestand, oder die zu irgendeinem Zeitpunkte in ihr verkörpert waren, einschließlich der Allgemeinen SS, der Waffen-SS, der SS Totenkopf-Verbände, der SS Polizeiregimenter und des Sicherheitsdienstes des Reichsführers SS (allgemein als der „SD" bekannt), aber nicht nur auf diese beschränkt.
4. Die Geheime Staatspolizei (allgemein als die „Gestapo" bekannt), die sich aus den Hauptquartieren, Abteilungen, Büros, Zweigstellen und allen Mannschaften und allem Personal der Geheimen Staatspolizei von Preußen und aus gleichen geheimen und politischen Polizeikräften des Reiches und seiner einzelnen Teile zusammensetzte.
5. Die Sturmabteilungen der Nationalsozialistischen Deutschen Arbeiterpartei (allgemein als die „SA" bekannt).
6. Der Generalstab und das Oberkommando der deutschen Wehrmacht, die sich aus jenen Personen zusammensetzte, die zwischen Februar 1938 und Mai 1945 die obersten Befehlshaber der Wehrmacht, des Heeres, der Kriegsmarine und der Luftwaffe waren. Die Personen, aus denen diese Gruppe bestand, sind diejenigen Personen, die folgende Befehle innehatten:

   Oberbefehlshaber der Kriegsmarine,

   Chef (früher Chef des Stabes) der Seekriegsleitung,

   Oberbefehlshaber des Heeres,

   Chef des Generalstabes der Luftwaffe,

   Oberbefehlshaber der Luftwaffe,

   Chef des Oberkommandos der Wehrmacht,

   Chef des Führungsstabes des Oberkommandos der Wehrmacht,

   Oberbefehlshaber im Felde mit dem Rang eines Oberbefehlshabers der Wehrmacht, der Kriegsmarine, des Heeres, der Luftwaffe.

DASS solche Gruppen und Organisationen von den Hauptanklägern für die Verfolgung von Hauptkriegsverbrechern angeklagt werden, verbrecherische Organisationen zu sein, und daß dieser Gerichtshof von den Hauptanklägern beauftragt worden ist, die genannten Gruppen und Organisationen als verbrecherische zu erklären.

DASS, falls irgendwelche solcher Gruppen und Organisationen vor diesem Gerichtshof als verbrecherisch im Charakter befunden werden sollten, die Mitglieder auf Grund ihrer Zugehörigkeit gemäß den Bestimmungen des Charters dieses Gerichtshofs gerichtlicher Verfolgung und Bestrafung unterliegen, und bei jedwedem Gerichtsverfahren der verbrecherische Charakter der Gruppe oder Organisation als erwiesen angesehen und nicht in Frage gestellt werden soll.

DASS die Frage des verbrecherischen Charakters dieser Gruppen und Organisationen im Gerichtsverfahren, das am 20. Tage des Novembers 1945 im Justizpalast zu Nürnberg in Deutschland beginnt, untersucht werden wird.

DASS jede Person, die sich als Mitglied irgendeiner der genannten Gruppen oder Organisationen bekennt, berechtigt ist, den Gerichtshof um Erlaubnis zu ersuchen, von dem Gerichtshof in bezug auf die Frage des verbrecherischen Charakters der betreffenden Gruppe oder Organisation gehört zu werden. Derartige Gesuche müssen unverzüglich schriftlich eingereicht und an den Generalsekretär des Internationalen Militärgerichtshofes in Nürnberg, Deutschland, gerichtet werden.

DASS im Falle von Mitgliedern irgendwelcher der genannten Gruppen oder Organisationen, die

i) sich in der Haft der verfolgenden Mächte befinden sollten, solche Gesuche dem befehlshabenden Offizier des Ortes, wo die genannten Mitglieder sich in Haft befinden, übergeben werden sollen:

ii) sich nicht in Haft befinden sollten, solche Gesuche der nächsten Militärstelle übergeben werden sollen.

DASS der Gerichtshof ermächtigt ist, jedem derartigen Gesuch stattzugeben oder es abzuweisen. Falls dem Gesuch stattgegeben wird, wird der Gerichtshof anordnen, in welcher Weise der Gesuchsteller vertreten und gehört werden soll.

DASS diese Bekanntmachung unter keinen Umständen so ausgelegt werden darf, daß sie einem derartigen Gesuchsteller Straflosigkeit irgendwelcher Art verleiht.

FÜR DEN INTERNATIONALEN MILITÄR-GERICHTSHOF
HAROLD B. WILLEY, GENERALSEKRETÄR

INTERNATIONALER MILITÄR-GERICHTSHOF

BEKANNTMACHUNG

Martin BORMANN ist angeklagt, Verbrechen gegen den Frieden, Kriegsverbrechen und Verbrechen gegen die Menschheit begangen zu haben, wie sie in der Anklageschrift, die bei diesem Gerichtshof niedergelegt ist, aufgezählt sind.

Die Anklageschrift kann im Justizpalast in Nürnberg, Deutschland, eingesehen werden.

Martin BORMANN, sollte er auftauchen, hat das Recht, selbst gehört oder von seinem Rechtsvertreter verteidigt zu werden.

Sollte er nicht erscheinen, so kann sein Fall vom 20. November 1945 an in seiner Abwesenheit im Justizpalast in Nürnberg, Deutschland, verhandelt werden. Sollte er als schuldig befunden werden, so wird das Urteil gemäß den Befehlen der Kontroll-Kommission für Deutschland ohne weitere Verhandlung an ihm vollstreckt werden, nachdem er gefunden worden ist.

AUF BEFEHL DES INTERNATIONALEN MILITÄR-GERICHTSHOFES
DER GENERALSEKRETÄR HAROLD B. WILLEY

3. To my personal knowledge the Office of Information Control Service, Office of Military Government for Germany (U. S.), (Lt. Col. R. K. Fried, Executive Officer), relayed the attached notice to all German language newspapers and radio stations operating in the U. S. Zone with instructions to print and broadcast same as directed in the Tribunal's order. A further certificate of compliance with this provision of the Tribunal's order will be made by the Office of Information Control upon expiration of the fourth week on 17 November 1945.

Dated at Berlin, Germany, this 15th day of November 1945.

/s/ ALEXANDER G. BROWN, 0-912504,
Lt. Colonel, AUS-AC,
Legal Division, Office of Military Government for Germany (U. S.)

/s/ R. W. H. HORTIN
Major

Exhibit II A. Dissemination in the American Zone

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U. S.)
Legal Division
APO 742

27 October 1945

SUBJECT: Posting of International Military Tribunal Posters.
TO : Public Safety Division, U.S. Headquarters, Berlin District (Major Neumann).

1. It is requested that necessary action be taken to post 2,500 copies of the two orders of the International Military Tribunal in the case of Hermann Wilhelm Göring et al. in the U.S. Sector of Berlin on or before 1800 hours, 27 October 1945.

2. The Legal Division, Office of Military Government for Germany (U.S.) requests that a report be made at your earliest convenience advising as to the posting as requested in par. 1.

3. This request is in confirmation of arrangements previously made by Major Neumann and Lt. Col. Alexander G. Brown (76 X6110), this headquarters.

/s/ Charles Fahy
Director

1st Ind.

U.S.Hq.B.D. & Hq. F.A.A., OMG, P.S., APO 755, U.S. Army, 31 Oct 45.
TO: Legal Division, OMGGUS, APO 742.

1. Pursuant to request 2,500 copies of the two orders of the International Military Tribunal in the case of Hermann Wilhelm Göring et al. were posted in the U.S. Sector of Berlin before 1800 hrs, 27 October 1945.

2. Said orders were on said date and before said hour posted upon bulletin boards and in other conspicuous places, to the approximate number of 435, in each of the six VBKs, namely Steglitz, Zehlendorf, Kreuzberg, Tempelhof, Schöneberg, Neukölln, which constitute the U.S. Sector of Berlin.

/s/ E. K. NEUMANN
Major, A. C.
Chief Public Safety Officer

Exhibit II B. Dissemination in the American Zone

HQ. U.S. GROUP C.C.
A.G. CABLES
OUTGOING MESSAGE
UNCLASSIFIED
PRIORITY

TO : LEGAL BRANCH, OMGUS ZONE
FROM : OMGGUS FROM FAHY SIGNED CLAY
INFO ; INTERNATIONAL MILITARY TRIBUNAL NUREMBERG

REF NO : CC-18221 TOO: 291200 B Oct 45 em

Legal Division, OMGGUS, at request of the International Military Tribunal, Nuremberg, has arranged for the printing of 100,000 copies of official notice to defendants. Shipment of approximately this number by air priority will be made to OMGGUS Zone as soon as they are printed, probably Thursday. It is desired that one half of the shipment be relayed by OMGGUS Zone, to Headquarters, French Military Government, Baden-Baden. Court has directed that the notices be posted on official bulletin boards throughout US Zone and read and posted in all prisoner of war

camps. Similar distribution has been ordered in other zones in Germany. Request Legal Branch, OMGGUS Zone, take necessary action to insure immediate relay of posters to the French and immediate distribution to military detachments throughout US Zone with instruction that they shall be posted within 24 hours of receipt. Distribution by OMGGUS Zone, to include Bremen Enclave, but not Berlin District. Distribution in Berlin District made direct by Legal Division, OMGGUS. Request that regional military government detachments report through Legal Branch, OMGGUS Zone, to Harold B. Willey, General Secretary, International Military Tribunal, Nuremberg, upon compliance with posting of notices as directed, and that a copy of such report be forwarded to Legal Division, OMGGUS.

ORIGINATOR: Legal AUTH: F. H. GORDON
Major

INFORMATION: O/SS, Pub Relations, AG Records.

CC 18221 30 Oct 45 JAK/tb 0444B

UNCLASSIFIED

Exhibit II C. Dissemination in the American Zone

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

Certificate

I hereby certify that acting on instruction from Lieut. Colonel Raymond K. Fried I have performed the following services or have been informed of the following facts in connection with the publication and broadcast of notices in the above entitled cause under order of the above titled tribunal issued at Nuremberg, Germany, on or about 18 October, 1945:

1. I caused to be transmitted to the DANA news service in Bad Nauheim copies of the attached notices to Martin Bormann and to members of certain organizations (Exhibit I) with instructions that these notices were to be published in German language newspapers in the United States Zone of Germany and the United States Sector of Berlin, and broadcast over radio stations in the United States Zone.

2. Through the Radio Section of Information Control Division, U.S. Forces, European Theater, I have been informed that the above mentioned notices were broadcast three times each between October 26 and November 8, 1945 (Exhibit II D).

3. Through the DANA news service and through personal observation I have learned that copies of the above mentioned notices were printed in German language newspapers in the United States Zone and the United States sector of Berlin between 18 October and 17 November 1945.

Dated at Berlin, Germany, this 23rd day of November 1945.

/s/ HOWARD DENBY
Press Control News Unit (Berlin)
Information Control Division
United States Forces, European Theater

Exhibit II D. Dissemination in the American Zone

SUBJECT: War Crimes Indictments.
TO : Colonel Murphy.

1. The general indictment of the 24 defendants and the Nazi organizations was broadcast at 2015 on October 26, November 3 and November 8.

2. The notification to Bormann to the effect that he would be tried *in absentia* if he did not appear personally for trial was broadcast at 2000 hours October 26, November 2 and November 8.

3. All of these broadcasts originated at Luxembourg and were relayed by Frankfurt, Munich, and Stuttgart.

/s/ GERALD F. MAULSBY
Chief, Radio Section

Exhibit III A. Dissemination in the French Zone

COMMANDEMENT EN CHEF FRANÇAIS EN ALLEMAGNE

GOUVERNEMENT MILITAIRE
DE LA
ZONE FRANÇAISE
D'OCCUPATION
DIRECTION GÉNÉRALE
de la
JUSTICE
Le Directeur Général

Baden-Baden, 23 November 1945

Counsellor Furby
Director General of Justice
Representative in Germany for
the Search of War Criminals

to

The Delegate of the
Provisional Government of the
French Republic of the
Prosecution of the
International Military Tribunal
of the Major War Criminals

I certify that at the date of the 21st November 1945 the notice concerning the trial by the International Military Tribunal of the issue of the criminal character of certain organizations had been published in the German language in the French Zone of Occupation over the radio and newspapers at least once a week for two weeks, and that this publication will be continued for another two weeks over the one radio station of the French Zone (Koblenz) and in twelve German papers to give the widest possible dissemination throughout the French Zone.

I further certify that this notice was also published by the form of postings ordinarily employed by the military authorities in conveying information to the civilian population.

I further certify that this notice has been delivered to the appropriate French authorities in charge of prisoners of war for publication in the German language wherever practicable in prisoner of war camps in which Germans are imprisoned, in such manner as the officers commanding such camps may decide.

The Director General of Justice
Representative in Germany for the
Search of War Criminals,

(Seal) /s/ FURBY

Exhibit III B. Dissemination in the French Zone

COMMANDEMENT EN CHEF FRANÇAIS EN ALLEMAGNE

GOUVERNEMENT MILITAIRE
DE LA
ZONE FRANÇAISE
D'OCCUPATION
DIRECTION GÉNÉRALE
de la
JUSTICE
Le Directeur Général

Baden-Baden, 23 November 1945

Counsellor Furby
Director General of Justice
Representative in Germany for
the Search of War Criminals

to

The Delegate of the
Provisional Government of the
French Republic of the
Prosecution of the
International Military Tribunal
of the Major War Criminals

Certificate to General Secretary

I certify that at the date of the 21st November 1945 the notice to Martin Bormann that he is charged with having committed Crimes against Peace, War Crimes and Crimes against Humanity as set forth in an indictment which has been lodged with this Tribunal, had been published in the German language in the French Zone of Occupation over the radio and newspapers at least once a week for two weeks, the first publication having been made during the week beginning October the 12th, and that this publication will be continued for another two weeks over the one radio station of the French Zone (Koblenz) and in twelve German papers to give the widest possible dissemination throughout the French Zone.

The Director General of Justice
Representative in Germany for the
Search of War Criminals,

(Seal) /s/ FURBY

Exhibit IV A. Dissemination in the Russian Zone

General Secretary,
The International Military Tribunal,
Nuremberg.

Certificate

I hereby certify that announcement of the trial, by the International Military Tribunal of the criminal case of certain organi-

zations was duly published in German in the Soviet Zone of occupation in Germany in all the newspapers under our control namely: "Tägliche Rundschau", "Berliner Zeitung", "Deutsche Volkszeitung", "Neue Zeit", "Der Morgen", "Das Volk", (all published in Berlin), "Volksstimme", "Volkszeitung", "Thüringer Volkszeitung", "Volksblatt" and "Sächsische Volksstimme" (all published in the provinces).

The publication was repeated weekly beginning 22nd October 1945. In addition it was broadcast weekly over the Berlin radio.

Furthermore I certify that this announcement was posted in bill form.

Chief of Information Bureau,
Soviet Military Administration in Germany

/s/ I. TUGARINOV

14 November 1945
17/11/45 A. KUDROV /s/

Exhibit IV B. Dissemination in the Russian Zone

General Secretary,
The International Military Tribunal,
Nuremberg.

Certificate

I hereby certify that the complete text of the statement of Martin Bormann to the effect that he is guilty in full measure of crimes against peace, war crimes and crimes against humanity, as set forth in the Indictment presented to this Tribunal, has been read in German over the radio in the Soviet zone of occupation in Germany once a week starting with Oct. 22, that is, Oct. 24, Nov. 3, Nov. 10, and Nov. 17, 1945.

Concurrently on these same dates it was published in Berlin in the following papers: "Tägliche Rundschau", "Berliner Zeitung", "Deutsche Volkszeitung", "Neue Zeit", "Der Morgen", "Das Volk".

Moreover, each week it was published in the following provincial newspapers: "Volksblatt", "Sächsische Volkszeitung", "Volkszeitung", "Thüringer Volkszeitung".

Chief of Information Bureau,
Soviet Military Administration in Germany

/s/ I. TUGARINOV

17 November 1945

Exhibit V A. Dissemination in the British Zone

PR/ISC Group,
Advance Headquarters,
Control Commission for Germany
(British Element),
BERLIN, B.A.O.R.

The General Secretary,
International Military Tribunal.

I certify that the notice concerning the trial by the International Military Tribunal of the issue of the criminal character of certain organizations has been published in the German language in the British Zone of occupation in the following newspapers, at least once a week for four weeks:

	Circulation for week ending 27 Oct 45.
Neue Westfälische Zeitung	1,000,000
Neue Rheinische Zeitung	520,000
Kölnischer Kurier	370,000
Ruhr Zeitung	500,000
Aachener Nachrichten	110,000
Neue Hamburger Presse	402,500
Lübecker Post	156,000
Kieler Kurier	210,000
Hamburger Nachrichtenblatt	108,100
Lübecker Nachrichtenblatt	47,600
Kieler Nachrichtenblatt	17,500
Flensburger Nachrichtenblatt	12,500
Neuer Hannoverscher Kurier	433,000
Nordwest Nachrichten	301,000
Hannoversches Nachrichtenblatt	22,500
Neues Oldenburger Tageblatt	40,100
Lüneburger Post	178,900
Braunschweiger Neue Presse	150,500
Der Berliner	300,000

It has also been broadcast over the transmitters at Hamburg and Cologne (Langenberg).

I certify that it has thereby received the widest possible dissemination throughout the British Zone.

/s/ W. H. A. BISHOP
Major-General,
Chief, PR/ISC Group,
Control Commission for Germany (BE).

BERLIN, 15 Nov 45.

Exhibit V B. Dissemination in the British Zone

PR/ISC Group,
Advance Headquarters,
Control Commission for Germany
(British Element),
BERLIN, B.A.O.R.

The General Secretary,
International Military Tribunal,

I certify that the notice to Martin Bormann that he is charged with having committed Crimes against Peace, War Crimes and Crimes against Humanity as set forth in an indictment which has been lodged with this Tribunal has been read in full in the German language once a week for four weeks over the radio in the British Zone, the first reading having been during the week of October 22, 1945, and that it has also been published in four separate issues of "Der Berliner", the newspaper published in the British sector of Berlin.

/s/ W. H. A. BISHOP
Major General,
Chief, PR/ISC Group.
Control Commission for Germany (B. E.)

BERLIN, 15 Nov 45
/s/ R. W. H. HORTIN

CERTIFICATES OF SERVICE ON INDIVIDUAL DEFENDANTS

INTERNATIONAL MILITARY TRIBUNAL

24 October 1945

Certificate to General Secretary

I certify that I have served the following documents: (1) Indictment, (2) Notice, (3) Charter of International Military Tribunal, (4) Rule 2 (d) of the Rules of the International Military Tribunal, and (5) list of German lawyers, on the following named defendants at the time and place stated, by personally delivering to each of them a copy in the German language of each of the above-named documents:

HESS, Rudolf	19 October 45	Nuremberg
GÖRING, Hermann	19 October 45	Nuremberg
JODL, Alfred	19 October 45	Nuremberg
VON RIBBENTROP, Joachim	19 October 49	Nuremberg
KEITEL, Wilhelm	19 October 45	Nuremberg
LEY, Robert	19 October 45	Nuremberg
VON NEURATH, Constantin	19 October 45	Nuremberg
SAUCKEL, Fritz	19 October 45	Nuremberg
VON PAPEN, Franz	19 October 45	Nuremberg
DÖNITZ, Karl	19 October 45	Nuremberg
SEYSS-INQUART, Arthur	19 October 45	Nuremberg
FRANK, Hans	19 October 45	Nuremberg
ROSENBERG, Alfred	19 October 45	Nuremberg
FUNK, Walter	19 October 45	Nuremberg
FRICK, Wilhelm	19 October 45	Nuremberg
SPEER, Albert	19 October 45	Nuremberg
VON SCHIRACH, Baldur	19 October 45	Nuremberg
SCHACHT, Hjalmar	19 October 45	Nuremberg
STREICHER, Julius	19 October 45	Nuremberg
KALTENBRUNNER, Ernst	19 October 45	Nuremberg

I further certify that I have apprised each of the above-named defendants of his right to the employment and designation of counsel.

/s/ A. M. S. NEAVE,
Major.

CERTIFICATE OF SERVICE ON DEFENDANT GUSTAV KRUPP VON BOHLEN

INTERNATIONAL MILITARY TRIBUNAL

23 October 1945

Certificate to General Secretary

I certify that I have served the following documents: (1) Indictment, (2) Notice, (3) Charter of International Military Tribunal, (4) Rule 2(d) of the Rules of the International Military Tribunal, and (5) List of German Lawyers, on the following named defendant at the time and place stated, by personally delivering to him a copy in the German language of each of the above-named documents:

HERR GUSTAV KRUPP VON BOHLEN, 19 October 1945, Blühbach near Werfen, Austria.

I further certify that I have apprised the above-named defendant of his right to the employment and designation of counsel to the extent that this was possible in view of his mental condition.

At the direction of the Tribunal I have made an investigation into the state of Gustav Krupp von Bohlen's health and have obtained medical reports on this subject which are attached hereto. (Attachments I, II, and III).

As a result of the conclusions in these reports and my own observation, I suggest that the General Secretary recommend to the Tribunal that a committee of medical officers, representing each nation, be appointed by the Tribunal to proceed to Blühbach for the purpose of giving Krupp von Bohlen a thorough examination and reporting their findings to the Tribunal.

/s/ JAMES H. ROWE, JR.

Medical Certificates Attached to Certificate of Service on Defendant Gustav Krupp von Bohlen

(Attachment I)

3d Battalion, Medical Section
232d Infantry Regiment

Schloss Blühbach
Bezirk Bischofshofen, Austria
6 October 1945

MEMORANDUM FOR: Capt. Norman A. Stoll, JAGD, Office U.S. Chief of Counsel for the Prosecution of Axis Criminality

SUBJECT : Condition of Health of Mr. Gustav Krupp von Bohlen

1. Mr. Gustav Krupp von Bohlen was examined by me today, and the following findings are noticed.

2. Subject has suffered from progressive arteriosclerosis and senility since 1939. He suffered an attack of cerebral thrombosis in 1942, which resulted in a temporary facial paralysis. About a year ago he lost bladder and sphincter control.

3. At the present time he is bedridden, has to be fed and to be cared for by nurses. He has no insight into his condition or situation whatsoever and is unable to follow or keep up any conversation.

4. I do not believe that subject can be moved without serious detriment to his health or that interrogation would be of any value due to his loss of speech and complete lack of any understanding. His course will be progressively down-hill.

5. In my judgment subject is not mentally competent to stand trial in a court of justice.

/s/ WALTER PICK
Capt., MC, 232d Infantry

(Attachment II)

Blühbach, 13 September 1945

Otto Gerke, M. D.
Professor
Bad Gastein

Medical Certificate

Dr. Gustav Krupp von Bohlen und Halbach, born 7 August 1870, has been treated by me for many years; he was examined by me today. Since 1930 there has existed an arthrosis of the spine, as well as a hypotony which as far back as 1932 caused fainting fits. Since 1937 a rapidly increasing sclerosis of the vessels was to be noted which occurred in particular in the vessels of the brain.

In 1939 a fleeting paralysis of the eye muscles made its appearance and passing disturbances of speech occured. In the spring of 1942, the patient suffered an apoplectic stroke on the left side, with facialisparosis and a distinct increase of reflexes on the entire right side. The cerebral disturbances of circulation have gradually grown worse despite treatments with medicaments. They manifested themselves first in the form of impaired memory and will power, indecision and general deterioration of intellectual faculties and increased to the point of definite depressions accompanied by apoplectic numbness and involuntary crying. There developed an acute arteriosclerotic dementia.

In an automobile accident in December, 1944, the patient suffered a fracture of the nose bone and the skull basis and had to be treated for eight days in the Schwarzach Hospital at St. Veith. Since that time, his physical condition has also deteriorated, and several apoplectic fits have occurred as a consequence of multiple softenings of the brain with heart symptoms and striary syndroms.

The patient is by now completely apathetic and disorientated. There exists a motoric aphasy. Owing to rigor of the muscles, he can neither walk nor stand up. For approximately the last six months he has not been able to hold urine and stool. He is completely helpless even in the simplest matters. There can be traced an advanced emphysen in the lungs and a distinct myocardic impairment on the basis of a coronary sclerosis of the heart. An enlargement of the prostate gland has existed for years.

The prognosis of the condition is definitely unfavorable, an improvement is not to be expected. Herr Von Bohlen is in no way competent or capable of being interrogated.

/s/ DR. GERKE

(Attachment III)

HEADQUARTERS
42d DIVISION ARTILLERY
APO 411 US ARMY

20 October 1945

SUBJECT: Physical Examination of GUSTAV KRUPP VON BOHLEN UND HALBACH

TO : General Secretary, International Military Tribunal, APO 403

1. The following history and physical examination of Herr Gustav Krupp von Bohlen und Halbach is submitted in compliance with a request from Mr. James Rowe. The history was obtained from Frau Von Bohlen and from the valet. The information was obtained on the 19th and 20th of October 1945 when the patient was examined at his home at Blühbach, Austria.

2. HISTORY OF PRESENT ILLNESS: Herr Von Bohlen has been developing arteriosclerosis since 1932 according to his physician's reports. It is believed that he first had a very light apoplectic stroke in 1937. This was very transitory in nature and cleared without noticeable aftereffects except for some loss of the acuteness of his thought processes and memory which his family noticed. In the latter part of November 1944 he had a spell of unconsciousness, fell and fractured a finger and was unable to walk alone for about 24 hours. On 15 December 1944, he was in an automobile accident and received a severe blow and laceration of the forehead. He was hospitalized as a result of this accident until the first week of February 1945, at which time he returned home. Following this he was able to walk only with assistance and he was unable to make coherent statements. He continued to have light strokes and since March has been unable to walk even with help, and his ability to speak has gradually decreased until at the present time he is able only to speak an occasional single word. Also since leaving the hospital he has had no control of the bowels or bladder and during the past three months has given no evidence of recognizing various members of his family or close acquaintances.

3. PHYSICAL EXAMINATION:

GENERAL: The patient is an emaciated white male of 76 years of age who is unable to speak or to cooperate in his own examination, and appears to have no realization of what is going on about him.

SKIN: Scar 2 inches long extending across the forehead and downward between the eyes and across the bridge of the nose.

The skin of the groin is macerated bilaterally as a result of being constantly moistened with urine.

EYES, EARS, NOSE AND THROAT: No marked abnormalities.

LUNGS: Hyper-resonant throughout with moderate enlargement of the chest cage suggesting the presence of mild emphysema.

CARDIOVASCULAR SYSTEM: Apex of heart palpable at a point 1 cm medial to the left mid-clavicular line. No evidence of right heart enlargement could be detected. Pulse 80. Blood pressure 130/75. Pulse full and regular except for an occasional skipped beat. The distal palpable arteries in the wrist and ankles were markedly sclerotic.

MUSCULO-SKELETAL SYSTEM: Both legs and arms were slowly moved by the patient although all movements of the extremities were associated with moderate spasticity. The patient was unable to stand alone or walk when he was held upright.

NEUROLOGICAL SYSTEM: Pupillary reaction to light normal. Deep tendon reflexes in arms and legs were normal. Normal reaction to plantar stimulation.

GENITO-URINARY SYSTEM: Incontinence of urine was noted at the time of examination. Genitalia appeared normal. A prostatic examination was not made.

GASTRO-INTESTINAL SYSTEM: Abdominal examination was normal. Incontinence of the bowels was noted at the time of the examination.

4. IMPRESSION AND PROGNOSIS:

It is the impression of the undersigned that this man is suffering from far advanced generalized arteriosclerosis which is progressive and that he has already suffered from repeated small apoplectic strokes. It is believed that this condition has already developed to the point where this man has lost all capacity for memory, reasoning or understanding of statements made to him and that transporting or doing anything which might excite him might endanger his life.

/s/ PAUL F. CHESNUT
Capt., MC
Surgeon.

ACKNOWLEDGMENT OF SERVICE

The following declarations were received in writing from Hans Fritzsche and from Erich Raeder on 18 October 1945:

I, Hans Fritzsche, have received today, on 18 October 1945, at 1950 Berlin time, the Indictment of the Chief of Counsel of the International Military Tribunal, a statement regarding my right to defense, a list of German lawyers, the Rules of the International Military Tribunal in the German language. Above documents have been handed to me by the Red Army Officer Grishajeff, acting on orders of the International Military Tribunal and who advised me in the German language on the contents of the documents and on my right to defense.

Berlin, 18 October 1945.

/s/ HANS FRITZSCHE

I, Erich Raeder, have received today, on 18 October 1945, at 1850 Berlin time, the Indictment of the Chief of Counsel of the International Military Tribunal, a statement regarding my right to defense, a list of German lawyers, the Rules of the International Military Tribunal in the German language. Above documents have been handed to me by the Red Army Officer Grishajeff, acting on orders of the International Military Tribunal and who advised me in the German language on the contents of the documents and on my right to defense.

Berlin, 18 October 1945.

/s/ ERICH RAEDER

MOTION ON BEHALF OF DEFENDANT GUSTAV KRUPP VON BOHLEN FOR POSTPONEMENT OF THE TRIAL AS TO HIM

Nuremberg, 4 November 1945

Theodor Klefisch
Lawyer
Cologne, 43, Blumenthalstrasse
To: The International Military Tribunal,
Nuremberg.

As defending counsel to the accused Dr. Gustav Krupp von Bohlen und Halbach I request that the proceedings against this accused be deferred until he is again fit for trial.

At any rate I request that the accused be not tried in his absence.

Reasons

By Article 12 of the Charter of the International Military Tribunal this Court has the right to try an accused in his absence if he cannot be found, or if the Court deem this necessary for other reasons in the interest of justice.

The 75-year-old accused Krupp von Bohlen has for a long time been incapable of trial or examination owing to his severe physical and mental infirmities. He is not in a position to be in contact with the outside world nor to make or receive statements. The Indictment was served on him on 19 October 1945 by a representative of the International Military Tribunal by placing the document on his bed. The accused had no knowledge of this event. Consequently he is not aware of the existence of an Indictment. Naturally therefore he is not capable of communicating either with his defense counsel nor with other persons on the subject of his defense.

To prove the above two medical certificates are enclosed — that of the court medical expert Doctor Karl Gersdorf of Werfen, Salzburg of 9 September 1945, and that of the Professor Doctor Otto Gerke of Badgastein of 13 September.

Lately Herr Krupp von Bohlen has been examined several times by American military doctors. As far as it is possible I should like to request another complete medical examination. If the accused is unable to appear before the Court, then according to Article 12 of the Charter he could be tried only if the Court deemed it necessary in the interests of justice.

Whatever may be understood by the phrase "in the interests of justice" it would hardly be objective justice to try a defendant accused of such serious crimes, if he were not informed of the con-

tents of the accusations or if he were not given the chance to conduct his own defense or instruct a defense counsel. Particularly is he in no condition to comprehend the following rights of an accused set out in the Charter:

1. By Article 16, Section (a) of the Charter a copy of the Indictment in a language which he understands will be served on the accused at a suitably appointed time. The assurance given hereby for a sufficient preparation of the proceedings can not be guaranteed to Defendant Krupp von Bohlen on account of his state of disease. According to Section (c) of the same Article 16 a preliminary interrogation of the defendant shall take place in a language intelligible to him. That is likewise impossible here. According to Section (d) of Article 16 the defendant moreover can not exercise his right of decision as to whether he will conduct his own defense or whether he would like to be defended by counsel. Also the right of the defendant as provided in Section (c) of producing evidence and of cross examining witnesses himself or by his counsel in his behalf can not be exercised by the defendant in view of his condition.

2. In the same manner as the Defendant Gustav Krupp von Bohlen und Halbach is not able to exercise the confirmed rights stated above in the preliminary proceedings he will also not be able to exercise in the Trial those rights guaranteed to him by Article 24 of the Charter. In the first place this concerns the statement which the accused has to render on inquiry as to whether he admits his guilt or not, a statement which is of particular importance for the course of the Trial and for the decision of the Tribunal. This is all the more important as this statement regarding guilt or innocence can be made exclusively by the accused himself according to his own judgment and after examining his conscience. So far as the procedure is admissible at all, the defense counsel could not at the request of the Court express himself on the question of guilt, as such a declaration presupposes the possibility of communication and understanding with the accused.

Also the defendant could not exercise the right to the last word to which he is entitled according to Article 24, Section (j).

The legislators who set up these guarantees for the defense cannot wish to deny them undeservedly to an accused who can not make use of them owing to illness. If by Article 12 of the Charter the Trial of an absent defendant is allowed, then this exception to the rule can be applied only to a defendant who is unwilling to appear though able to do so. As is the case with the criminal procedure rules of nearly all countries, it is on this principle that the rules and regulations concerning the trial of absent defendants are based.

/s/ KLEFISCH
Lawyer

Medical Certificates Attached to Motion on Behalf of Defendant Gustav Krupp von Bohlen

(Attachment I)

Doctor's Certificate

Dr. Gustav Krupp von Bohlen und Halbach, born 7 August 1870, presently residing at Posthaus Blühbach, Werfen, Salzburg, suffers from progressive arteriosclerotic softening of the brain (Paralysis celebri) and as a consequence of this illness he requires constant care and treatment. He is incapable of standing trial or of being subjected to interrogation. An improvement of his condition is not to be expected. Owing to his bad general physical condition (Myodegeneratio cordis and Ataxis) he is not capable of traveling either.

/s/ KARL GERSDORF, M. D.
District Doctor
Werfen, Salzburg
Certified Court Expert

Werfen, 8 September 1945

(Attachment II)

Attachment II is a medical certificate by Dr. Otto Gerke, printed on page 120 ante.

REPORT OF MEDICAL COMMISSION APPOINTED TO EXAMINE DEFENDANT GUSTAV KRUPP VON BOHLEN*

7 November 1945

We, the undersigned, during the morning of 6 November 1945, examined the patient, identified as Gustav Krupp von Bohlen by the military authorities in charge, in the presence of his wife and nurse.

We unanimously agree that the patient was suffering from: Senile softening of the brain, selectively affecting the frontal lobes of the cerebral cortex and the corpus striatum, due to vascular degeneration.

It is our unanimous, considered, professional opinion that the mental condition of the patient, Gustav Krupp von Bohlen, is such that he is incapable of understanding court procedure, and of understanding or cooperating in interrogation.

The physical state of the patient is such that he cannot be moved without endangering his life.

We are of the considered opinion that his condition is unlikely to improve, but rather to deteriorate even further.

Therefore, we unanimously believe that he will never be fit, mentally or physically, to appear before the International Military Tribunal.

/s/ R. E. TUNBRIDGE
Brigadier, O.B.E., M.D., M.Sc., F.R.C.P.
Consulting Physician, British Army of the Rhine

/s/ RENE PIEDELIEVRE
M.D., Professor of the Paris Faculty of Medicine;
Expert of the Tribunal

/s/ NICOLAS KURSHAKOV
Professor of Medicine, Medical Institute of Moscow
Chief Internist, Commissariat of Public Health, U.S.S.R.

/s/ EUGENE SEPP
Emeritus Professor of Neurology, Medical Institute of Moscow
Member, Academy of Medical Sciences, U.S.S.R.

/s/ EUGENE KRASNUSHKIN
M. D., Professor of Psychiatry, Medical Institute of Moscow

/s/ BERTRAM SCHAFFNER
Major, Medical Corps
Neuropsychiatrist, Army of the United States

*At a meeting of the International Military Tribunal on 30 October 1945 "it was agreed that a committee of four medical officers, one appointed by each Member of the Tribunal, be sent, if the Committee of Prosecutors made no objection, to examine Krupp and that they be empowered to employ specialists if necessary." The report of this Medical Commission was presented 7 November 1945.

Report of the Medical Examination of Herr Gustav Krupp von Bohlen

1. History: The following information was obtained by questioning Frau Krupp von Bohlen, wife of the patient, Herr Krupp's valet, and Frl. Krone, private secretary of the patient.

The patient had been physically a very active man. He hunted, rode and played tennis. With the aid of guides, he was hunting deer as recently as 1943. He was abstemious in his personal habits, did not smoke or partake of alcohol. He retired to bed early, rarely remaining up after 2200 hours. He had eight children, six sons and two daughters. There is no family history of mental disorder or of drug addiction.

Previous Illness: There is no history of any major illness. Since 1930, he has taken spa treatment each year for arthritis of the spine and for hypotension. No radiographs were available to indicate the true pathology of the spinal condition. The valet stated that the patient, on the recommendation of his physicians, had been very careful with his diet during the past ten years.

Present Illness: For several years, the patient had been subject to giddy attacks. In consequence, his wife was always anxious when he went hunting, lest he should have an attack whilst on the edge of a cliff, and fall and kill himself. Two reliable guides always accompanied him on his hunting excursions, and in 1942 Frau Krupp also joined in expeditions in order to watch him.

Four years ago, the patient had a disturbance of vision primarily due to dysfunction of the eye muscles. For a period he had double vision. From this illness, he made an apparent complete recovery.

Two years ago he had a stroke, with weakness of the left side of the face, and impaired function of the right side of the body. Following the latter incident, impairment of gait, general weakness, and impairment of mental functions became increasingly apparent. From the middle of 1944 onwards, the patient became more and more dependent upon his wife; she was the only person who seemed to understand fully his speech and his needs.

On November 25th, 1944, he was proceeding from the garden towards the house, and suddenly seemed to run (propulsion gait). Just before reaching the house, he fell and injured his arm. As a result of this accident, he attended the local hospital for treatment, traveling by motor-car. On

December 4th, whilst traveling to the hospital at Schwarzach-St. Veith, and asleep in the back of the car, the driver was compelled to swerve to avoid another vehicle, and to brake suddenly. Herr Krupp von Bohlen was thrown forward, and hit his forehead and the bridge of the nose against a metal rail behind the driver's seat. He did not lose consciousness, but his condition was such that he was detained in the hospital for approximately eight weeks. During his stay in the hospital, he recognized his wife, his relatives and the members of his staff, and spoke to them, albeit haltingly.

Since the accident mentioned above, the general condition of the patient has deteriorated rapidly. The members of his staff had increasing difficulty in understanding him. At first, with the aid of two people, he was able to walk a few steps; until two months ago he sat for short periods in a chair. The assistance of men-servants was necessary for this task. He has been incontinent of feces and urine since returning from the hospital in February 1945. Since this date he has only spoken an occasional single word, the words being simple ones and without any rational association, apart from sporadic expletives, such as "Ach, Gott" and "Donner Wetter", when disturbed. At times he has been exceedingly irritable and on occasions has had inexplicable bouts of weeping. During the past two months, he has become increasingly apathetic, and no longer recognized relatives or friends. Frau Von Bohlen thinks he may still recognize her as a familiar face, but he exhibits no emotional reaction to her presence. She thinks he realizes occasionally that strangers are in the room; e. g., members of the Allied services, and responds by being very tense.

Frl. Krone, secretary to the patient, stated that on returning to Blühbach in September 1944, after an absence since May 1944, she could no longer take down letters as dictated by Krupp von Bohlen. Normally he was a very punctilious man, and his diction and writing were correct and very precise. She stated that after September 1944 there were frequent interruptions in his flow of ideas, his syntax was faulty, and he occasionally did not appear to appreciate the meaning of certain words. She would get an idea of what he wanted to say, and then wrote the letter herself in accordance with what she understood to be his wishes. His hand-writing also became increasingly illegible, and he had difficulty in signing his name when giving power of attorney to his relatives in January 1945.

The valet had been personal valet to Krupp for 20 years, and traveled all over the world with him. He described his master as a very active man, physically and mentally, extremely punctilious in all personal details. He took a great interest in his clothes, and was very observant of any slight defect. In his personal habits he was abstemious, never taking alcohol, and was also a non-smoker. Although a very excellent sportsman and physically capable of considerable feats of endurance when hunting, playing tennis or climbing, he never overdid things and took care of himself without in any way being overanxious about his health. The valet first began to notice serious changes in the patient's personal habits two years ago, although in the valet's opinion, he had been failing slightly for about four to five years. The degree of change, however, prior to two years ago, was so slight and his master was in his opinion such a "superman", that the changes would not have been apparent to the casual observer. Two years ago he began to lose interest in the details of his personal clothing and to become careless with his table manners. For instance, when soup was served to him one day, he took his soup-spoon and used it to take water from his wine-glass. Latterly, he would sit at table and ask who was present, although the only people in the room were intimate members of his family. He would complain that the telephone bell was ringing, and of people speaking to him; these hallucinations became more frequent during the latter part of 1944. The valet was employed as caretaker of the main house by the American Military Government after the cessation of hostilities in Europe, and did not see his employer regularly after June 1945. On August 7, 1945, the occasion of Gustav Krupp von Bohlen's birthday, he called to pay his respects, and for the first time he was not recognized, and his master showed no appreciation of his presence or his conversation.

2. General Appearance: The patient was lying rigidly in bed in a Parkinsonian position with fine tremors of the jaw and hands. The skin was atrophic and dry, and there was pigmentation of the dorsum of the hands. The temporal arteries were prominent and tortuous. The face was masklike, with dilated venules over the cheeks. There was evidence of considerable wasting of the body tissues, especially in the extremities, which also showed evidence of trophic and acrocyanotic changes.

3. Neuropsychiatric Examination: The patient lay in bed with a masklike face and in a fixed position on his back. The legs

were partially flexed, and similarly the elbows, the latter being pressed firmly against the trunk. There was generalized muscular rigidity, due to hypertenus of an extra-pyramidal tract lesion.

On the physicians' entering the room, the patient fixed his gaze on them, and replied to their greeting with "Guten Tag," and gave his hand when they offered theirs to him. He shook hands normally, but he could not relax his hold or remove his hand, and continued to squeeze the physician's hand; this was due to the presence of a forced grasp-reflex, which was more marked in the left than in the right hand. When asked how he felt, he replied "Gut," but to all further questions he gave no reply at all. He was silent and showed no reaction to, or comprehension of, other questions, and simple commands, such as "Open your mouth," "Put out your tongue," "Look this way." Only painful and disagreeable stimuli produced any reaction, and then it was merely a facial expression of discontent, sometimes accompanied by grunts of disapproval.

The disturbance of verbal response was not due to dysarthria, because the patient was able to pronounce such words as he did use, quite distinctly. Neither was it due to motor aphasia, because the few words he used were used correctly, and he never exhibited the jargon responses of the true aphasic when attempting to answer questions.

The patient was indifferent, apathetic, and was not in good rapport with the external world, lacked initiative, exhibited paucity of emotion. He uttered no spontaneous speech, and his reaction to painful stimuli was primitive.

Neurological examination showed the following additional abnormal findings: There was a right facial weakness of a supranuclear origin. The pupils reacted promptly to light, and appeared normal, save that the left was slightly larger than the right. Ophthalmoscopic examination of the fundi, limited by lack of cooperation from the patient, showed clear media and normal retina and retinal vessels. The right disc, the only one visualized, appeared normal. Extra-ocular movements could not be tested; there was no obvious strabismus. All deep reflexes in the arms and legs were present and very brisk. Clonus was not elicited. The plantar reflexes were flexor. Abdominal reflexes were absent, except for the right upper. There was incontinence of urine and feces, of the type associated with senile dementia. There was an associated minimal degree of intertrigo. Owing to lack of cooperation of the patient a full sensory examination could not

be made, but the patient responded to pin-prick, deep pressure and muscular movement throughout the body.

4. Cardio-vascular Examination:

Pulse: Rate 100, rhythm irregular. The irregularity was due to extra-systoles. The radial arteries were just palpable, without evidence of pathological thickening or tortuosity. Blood pressure: systolic 130 mm. of mercury, diastolic 80 mm. of mercury.

Heart: The heart was clinically not enlarged. The cardiac sounds were feeble, there was no accentuation of the second sound in the aortic area, nor were any cardiac murmurs audible. There were no vascular changes observable in the vessels of the fundi. There was no evidence of cedema or of congestive heart failure.

5. Respiratory Examination: Chest movement satisfactory. There was no impairment of percussion noted. Auscultation revealed no impairment of air entry, no alteration in the breath sounds, and the absence of any adventitious sounds.

6. Alimentary-renal Examination: There was slight distention of the abdomen, due to increase in the gaseous content of the intestines. There was no evidence of ascites. The spleen was not palpable, nor was there any evidence of glandular enlargement. The liver was just palpable, one finger's breadth below the right costal margin, but there was no evidence of enlargement upwards. Urinalysis: no sugar or albumen present.

7. Skeletal Examination: The patient's rigidity limited the examination of joints. There was limitation of movement of the neck due to muscular hypertonus. The hypertonus was so marked in the lower dorsal and lumbar region as to produce rigidity of the spine. Attempts to move the joints passively stimulated involuntary contractures of the muscles. There was evidence of crepitus in both knee-joints.

DISCUSSION:

The clinical record presented by this patient is that of an organic cerebral disorder, with predominant involvement of the frontal lobes and basal ganglia. The mental disintegration of the patient renders him incapable of comprehending his environment, and of reacting normally to it. He remains uniformly apathetic and disinterested, intellectually retarded to a very marked degree, and shows no evidence of spontaneous activity.

The above findings are such as are found in the degenerative changes associated with senility. The findings in the visceral organs are likewise compatible with the diagnosis of senile degeneration.

The clinical course, from the evidence obtained, has been that of a gradual decline over a period of years, with more rapid deterioration during the past year. Such deterioration will continue, and would be rapidly accelerated, with immediate danger to the patient's life, were he to be moved from his present location.

DIAGNOSIS:

Senile degeneration of the brain tissues, selectively affecting the frontal lobes of the cerebral cortex and the basal ganglia, with associated senile degeneration of the visceral organs.

/s/ R. E. TUNBRIDGE
Brigadier, O.B.E., M.D., M.Sc., F.R.C.P., Consulting Physician, British Army of the Rhine

/s/ RENE PIEDELIEVRE
M.D., Professor of the Paris Faculty of Medicine, Expert of the Tribunal

/s/ NICOLAS KURSHAKOV
M.D., Professor of Medicine, Medical Institute of Moscow, Chief Internist, Commissariat of Public Health U.S.S.R.

/s/ EUGENE SEPP
M.D., Emeritus Professor of Neurology, Medical Inst. of Moscow; Member, Academy of Medical Sciences, U.S.S.R.

/s/ EUGENE KRASNUSHKIN
M.D., Professor of Psychiatry, Medical Institute of Moscow.

/s/ BERTRAM SCHAFFNER
Major, Medical Corps, Neuropsychiatrist, Army of the United States

ANSWER OF THE UNITED STATES PROSECUTION TO THE MOTION ON BEHALF OF DEFENDANT GUSTAV KRUPP VON BOHLEN

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

ANSWER FOR THE UNITED STATES TO THE MOTION FILED IN BEHALF OF KRUPP VON BOHLEN

The United States respectfully opposes the application on behalf of Gustav Krupp von Bohlen und Halbach that his trial be "deferred until he is again fit for trial."

If the Tribunal should grant this application, the practical effect would be to quash all proceedings, for all time, against Krupp von Bohlen.

It appears that Krupp should not be arrested and brought to the court room for trial. But the plea is that the Tribunal also excuse him from being tried *in absentia*. This form of trial admittedly is authorized by Article 12 of the Charter of the Tribunal. Of course, trial *in absentia* in circumstance of the case is an unsatisfactory proceeding either for prosecution or for defense. But the request that Krupp von Bohlen be neither brought to court nor tried in his absence is based on the contention that "the interests of justice" require that he be thus excused from any form of trial. Public interests, which transcend all private considerations, require that Krupp von Bohlen shall not be dismissed unless some other representative of the Krupp armament and munitions interests be substituted. These public interests are as follows:

Four generations of the Krupp family have owned and operated the great armament and munitions plants which have been the chief source of Germany's war supplies. For over 130 years this family has been the focus, the symbol, and the beneficiary of the most sinister forces engaged in menacing the peace of Europe. During the period between the two World Wars, the management of these enterprises was chiefly in Defendant Krupp von Bohlen.

It was at all times however a Krupp family enterprise. Only a nominal owner himself, Von Bohlen's wife, Bertha Krupp, owned the bulk of the stock. About 1937 their son, Alfried Krupp, became plant manager and was actively associated in the policy making and executive management thereafter. In 1940 Krupp von Bohlen, getting on in years, became chairman of the board of the concern, thus making way for Alfried who became president. In 1943 Alfried became sole owner of the Krupp enterprises by agreement between the family and the Nazi Government, for the purpose of perpetuating this business in Krupp family control. It is evident that the future menace of this concern lies in continuance of the tradition under Alfried, now reported to be an internee of the British Army of the Rhine.

To drop Krupp von Bohlen from this case without substitution of Alfried, drops from the case the entire Krupp family, and defeats any effective judgment against the German armament makers. Whether this would be "in the interests of justice" will appear from the following recital of only the most significant items of evidence now in possession of the United States as to the activities of Krupp von Bohlen in which his son, Alfried, at all times aided as did other associates in the vast armament enterprises, all plotting to bring about the second World War, and to aid in its ruthless and illegal conduct.

After the first World War, the Krupp family and their associates failed to comply with Germany's disarmament agreements but all secretly and knowingly conspired to evade them.

In the 1 March 1940 issue of the Krupp Magazine, the Defendant Krupp stated:

> "I wanted and had to maintain Krupp in spite of all opposition, as an armament plant for the later future, even if in camouflaged form. I could only speak in the smallest, most intimate circles, about the real reasons which made me undertake the changeover of the plants for certain lines of production . . . . Even the Allied snoop commissioners were duped . . . . After the accession to power of Adolf Hitler, I had the satisfaction of reporting to the Führer that Krupp stood ready, after a short warming-up period, to begin rearmament of the German people without any gaps of experience . . . ."

Krupp von Bohlen (and Alfried Krupp as well) lent his name, prestige and financial support to bring the Nazi Party, with an avowed program of renewing the war, into power over the German State. On 25 April 1931 Von Bohlen acted as chairman of the Association of German Industry to bring it into line with Nazi policies. On 30 May 1933 he wrote to Schacht that:

"It is proposed to initiate a collection in the most far-

reaching circles of German industry, including agriculture and the banking world, which is to be put at the disposal of the Führer of the NSDAP in the name of 'The Hitler Fund' . . . . I have accepted the chairmanship of the management council."

Krupp contributed from the treasury of the main Krupp company 4,738,446 marks to the Nazi Party fund. In June 1935 he contributed 100,000 marks to the Nazi Party out of his personal account.

The Nazi Party did not succeed in obtaining control of Germany until it obtained support of the industrial interests, largely through the influence of Krupp. Alfried first became a Nazi Party member and later Von Bohlen did also. The Krupp influence was powerful in promoting the Nazi plan to incite aggressive warfare in Europe.

Krupp von Bohlen strongly advocated and supported Germany's withdrawal from the Disarmament Conference and from the League of Nations. He personally made repeated public speeches approving and inciting Hitler's program of aggression: On 6 and 7 April 1938 two speeches approved annexation of Austria; on 13 October 1938 approving Nazi occupation of the Sudetenland; on 4 September 1939 approving the invasion of Poland; on 6 May 1941 commemorating success of Nazi arms in the West.

Alfried Krupp also made speeches to the same general effect. Krupps were thus one of the most persistent and influential forces that made this war.

Krupps also were the chief factor in getting ready for the war. In January 1944, in a speech at the University of Berlin, Von Bohlen boasted, "Through years of secret work, scientific and basic groundwork was laid in order to be ready again to work for the German Armed Forces at the appointed hour without loss of time or experience." In 1937, before Germany went to war, Krupps booked orders to equip satellite governments on approval of the German High Command. Krupp contributed 20,000 marks to the Defendant Rosenberg for the purpose of spreading Nazi propaganda abroad. In a memorandum of 12 October 1939 a Krupp official wrote offering to mail propaganda pamphlets abroad at Krupp expense.

Once the war was on, Krupps, both Von Bohlen and Alfried being directly responsible therefor, led German industry in violating treaties and international law by employing enslaved laborers, impressed and imported from nearly every country occupied by Germany, and by compelling prisoners of war to make arms and munitions for use against their own countries. There is ample evidence that in Krupp's custody and service they were underfed and overworked, misused, and inhumanly treated. Captured records show that in September 1944 Krupp concerns were working 54,990 foreign workers and 18,902 prisoners of war.

Moreover, the Krupp companies profited greatly from destroying the peace of the world through support of the Nazi program. The rearmament of Germany gave Krupp huge orders and corresponding profits. Before this Nazi menace to the peace began, the Krupps were operating at a substantial loss. But the net profits after taxes, gifts, and reserves steadily rose with rise of Nazi rearmament, being as follows:

For year ending 30 September 1935 — 57,216,392 marks
For year ending 30 September 1938 — 97,071,632 marks
For year ending 30 September 1941 — 111,555,216 marks

The book value of the Krupp concerns mounted from 75,962,000 marks on 1 October 1933, to 237,316,093 marks on 1 October 1943. Even this included many going concerns in occupied countries at a book value of only 1 mark each. These figures are subject to the adjustments and controversies usual with financial statements of each vast enterprise but approximately reflect the facts about property and operations.

The services of Alfried Krupp and of Von Bohlen and their family to the war aims of the Nazi Party were so outstanding that the Krupp enterprises were made a special exception to the policy of nationalization of industries. Hitler said that he would be "prepared to arrange for any possible safeguarding for the continued existence of the works as a family enterprise; it would be simplest to issue 'lex Krupp' to start with". After short negotiations, this was done. A decree of 12 November 1943 preserves the Krupp works as a family enterprise in Alfried Krupp's control and recites that it is done in recognition of the fact that "for 132 years the firm of Fried. Krupp, as a family enterprise has achieved outstanding and unique merits for the armed strength of the German people."

It has at all times been the position of the United States that the great industrialists of Germany were guilty of the crimes charged in this Indictment quite as much as its politicians, diplomats, and soldiers. Its chief of counsel, on 7 June 1945, in a report to President Truman, released by him and with his approval, stated that the accusations of crimes include individuals in authority in the financial, industrial, and economic life of Germany as well as others.

Pursuant thereto, the United States, with approval of the Secretary of State, proposed to indict Alfried Krupp, son of Krupp von Bohlen, and president and owner of the Krupp concern. The Prosecutors representing the Soviet Union, the French Republic, and the United Kingdom unanimously opposed inclusion of Alfried Krupp. This is not said in criticism of them or their judgment. The necessity of limiting the number of defendants was considered by representatives of the other three nations to preclude the addition of

Alfried Krupp. Immediately upon service of the Indictment, learning the serious condition of Krupp von Bohlen, the United States again called a meeting of Prosecutors and proposed an amendment to include Alfried Krupp. Again the proposal of the United States was defeated by a vote of 3 to 1. If now the Tribunal shall exercise its discretion to excuse from trial the one indicted member of the Krupp family, one of the chief purposes of the United States will be defeated and it is submitted that such a result is not "in the interests of justice."

The United States respectfully submits that no greater disservice to the future peace of the world could be done than to excuse the entire Krupp family and the armament enterprise from this Trial in which aggresive war making is sought to be condemned. The "interests of justice" cannot be determined without taking into account justice to the men of four generations whose lives have been taken or menaced by Krupp munitions and Krupp armament, and those of the future who can feel no safety if such persons as this escape all condemnation in proceedings such as this.

While of course the United States cannot, without the concurrence of one other Power indict a new defendant, it can under the Charter alone oppose this motion. The United States respectfully urges that if the favor now sought by Krupp von Bohlen is to be granted, it be upon the condition that Alfried Krupp be substituted or added as a defendant so that there may be a representative of the Krupp interests before the Tribunal.

It may be suggested that bringing in a new defendant would result in delay. Admitting, however, that a delay which cannot exceed a few days may be occasioned, it is respectfully suggested that the precise day that this Trial will start is a less important consideration than whether it is to fail of one of its principal purposes. The American Prosecution staff has been by long odds the longest and farthest away from home in this endeavor. On personal as well as public interest consideration it deplores delay. But we think the future as well as the contemporary world cannot fail to be shocked if, in a trial in which it is sought to condemn aggressive war making, the Krupp industrial empire is completely saved from condemnation.

The complete trial brief of the United States on Krupp von Bohlen with copies of the documents on which his culpability is asserted will be made available to the Tribunal if it is desired as evidence concerning him and Alfried Krupp and the Krupp concerns.

Respectfully submitted:

/s/ ROBERT H. JACKSON
Chief of Counsel for the
United States of America

12 November 1945

MEMORANDUM OF THE BRITISH PROSECUTION ON THE MOTION ON BEHALF OF DEFENDANT GUSTAV KRUPP VON BOHLEN

British War Crimes Executive (E.S.)

12 November 1945

To: The International Military Tribunal.

The British Chief Prosecutor has had the opportunity of considering the application of the Defending Counsel to the accused GUSTAV KRUPP VON BOHLEN UND HALBACH:

1) that the proceedings against this accused be deferred until he is again fit for trial;

2) at any rate, that the accused be not tried in his absence.

The British Chief Prosecutor opposes this application for the following reasons:

i) The medical position is that as far as can be foreseen the said defendant will never again be fit for trial, and therefore if he is not tried in his absence, he will not be tried at all.

ii) Although in an ordinary case it is undesirable that a defendant should be tried when he is unable to comprehend the charges made against him, or to give instruction for his defence, there are special considerations which apply to this case and make it essential for the Defendant Gustav Krupp von Bohlen und Halbach to be tried in his absence.

iii) As this is a case of conspiracy, the British Prosecutor submits that all the evidence directly concerned with the actions and speeches of the said defendant and the operations of Fried. Krupp A.G. would be evidence against the remaining defendants, if the Prosecution establishes a *prima facie* case:
a) that the conspiracy existed;
b) that the said defendant was a party to the conspiracy.
Such *prima facie* case is clearly indicated in the Indictment lodged with the Tribunal and the evidence against the present defendant set out in the American Answer to this Application.

iv) If this submission of the British Chief Prosecutor is correct and this evidence can and will be given in Court, then it is at least arguable that it is preferable for the said defendant to be represented so that his lawyer can deal with such evidence to the best of his ability.

v) It is a matter of common knowledge of which the Court may take cognisance that the business of Fried. Krupp A.G. is

a vast organisation. There are, therefore, many sources within the Krupp firm from which the defending Advocate can obtain information which will enable him to deal with the allegations contained in the American Answer. If the Defendant Gustav Krupp is not retained in the list of defendants, there will be no advocate so well qualified to deal with those allegations on behalf of the other defendants, against whom they will still be preferred.

vi) In the circumstances of this trial the kernel of the case for the prosecution is that a number of conspirators have agreed and worked together for the purpose of waging aggressive war and causing untold misery to the World. The public interest, that the defendant who is responsible for the preparation of armaments on the one hand, and the utilisation on arms production, of prisoners of war and forced labour, including detainees from Concentration Camps on the other, is one of "the interests of justice" within Article 12 of the Charter.

vii) Finally, it is earnestly desired that the wishes of the Tribunal as publicly announced at Berlin on the 18th October that the trial should open on the appointed day, namely, 20th November be realised and carried into execution. The British Delegation is strongly opposed to any postponement.

/s/ HARTLEY SHAWCROSS
British Chief Prosecutor

MEMORANDUM OF THE FRENCH PROSECUTION ON THE MOTION ON BEHALF OF DEFENDANT GUSTAV KRUPP VON BOHLEN

Nuremberg, 13 November 1945

MEMORANDUM

by the French Delegation concerning the matter of Krupp which was discussed at the meeting of 12 November 1945

France is formally opposed to dropping the firm of Krupp from the Trial since the other prosecutors do not contemplate the possibility of preparing at this time a second trial directed against the big German industrialists.

France objects therefore to a simple severance.

The remaining possibilities are either the trial of Krupp Sr. *in absentia* or the substitution of Krupp Jr. in his father's place and stead.

The trial of an old man who is about to die and who is not before the Court is difficult in itself.

France would prefer to substitute his son against whom there are serious charges.

For simple reasons of expediency, France requests that there be no delay in excess of the delay that will result in all probability from the motions of the Defense.

If the Tribunal denies these motions of the Defense, the Trial of Krupp Sr. should take place in his absence.

However, this is in our opinion the lesser of two evils.

/s/ DUBOST

SUPPLEMENTAL MEMORANDUM OF THE FRENCH PROSECUTION

Nuremberg, 14 November 1945

ADDITIONAL MEMORANDUM

We consider the trial of KRUPP, the father, as impossible under the circumstances. The trial of an old, dying man, absent from the dock, cannot take place.

We wish that the son be prosecuted. There are serious charges against him.

We had requested, so far, that he be prosecuted without any delay arising in the Trial therefrom.

The reasons of opportunity which had induced us to adopt this attitude are no longer so imperative since the Soviet Delegation has concurred in Mr. Jackson's thesis.

Consequently we no longer raise any objection and we concur ourselves in this thesis.

The Deputy-Delegate of
The French Government
in the Prosecution of
The International Military Tribunal
/s/ CH. DUBOST

ORDER OF THE TRIBUNAL GRANTING POSTPONEMENT OF PROCEEDINGS AGAINST GUSTAV KRUPP VON BOHLEN

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

ORDER

ON CONSIDERATION of the application of counsel for the defendant, Gustav Krupp von Bohlen, for a postponement of the proceedings against him;

IT IS ORDERED that the application for postponement be, and the same hereby is, granted;

IT IS FURTHER ORDERED that the charges in the indictment against Gustav Krupp von Bohlen shall be retained upon the docket of the Tribunal for trial hereafter, if the physical and mental condition of the defendant should permit.

BY THE INTERNATIONAL MILITARY TRIBUNAL
/s/ GEOFFREY LAWRENCE
President.

Dated this 15th day
of November, 1945.

ATTEST:
/s/ WILLIAM L. MITCHELL
General Secretary.

SUPPLEMENTARY STATEMENT OF THE UNITED STATES PROSECUTION

MEMORANDUM FILED BY THE UNITED STATES CHIEF OF COUNSEL TO THE INTERNATIONAL MILITARY TRIBUNAL

The United States, by its Chief of Counsel, respectfully shows:

The order of the Tribunal, that "The charges in the Indictment against Gustav Krupp von Bohlen shall be retained upon the docket of the Tribunal for trial hereafter, if the physical and mental condition of the defendant should permit," requires the United States to make clear its attitude toward subsequent trials, which may have been misapprehended by the Tribunal, in order that no inference be drawn from its silence.

The United States never has committed itself to participate in any Four Power trial except the one now pending. The purpose of accusing organizations and groups as criminal was to reach, through subsequent and more expeditious trials before Military Government or military courts, a large number of persons. According to estimates of the United States Army, a finding that the organizations presently accused are criminal organizations would result in the trial of approximately 130,000 persons now held in the custody of the United States Army; and I am uninformed as to those held by others. It has been the great purpose of the United States from the beginning to bring into this one trial all that is necessary by way of defendants and evidence to reach the large number of persons responsible for the crimes charged without going over the entire evidence again. We, therefore, desire that it be a matter of record that the United States has not been, and is not by this order, committed to participate in any subsequent Four Power trial. It reserves freedom to determine that question after the capacity to handle one trial under difficult conditions has been tested.

Respectfully submitted:

/s/ ROBERT H. JACKSON
Chief of Counsel for the United States

Certified a true copy:
/s/ R. L. MORGAN
Major, GSC

MOTION OF THE COMMITTEE OF CHIEF PROSECUTORS TO AMEND THE INDICTMENT BY ADDING THE NAME OF ALFRIED KRUPP VON BOHLEN AS A DEFENDANT

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

TO THE INTERNATIONAL MILITARY TRIBUNAL:

Upon the Indictment and motion of Gustav Krupp von Bohlen und Halbach, the answers thereto and all proceedings had therein, the Committee of Prosecutors created under the Charter hereby designates Alfried Krupp von Bohlen und Halbach as a defendant and respectfully moves that the Indictment be amended by adding the name of Alfried Krupp von Bohlen und Halbach as a defendant and by the addition of appropriate allegations in reference to him in the Appendix A thereof. It also moves that the time of Alfried Krupp be shortened from thirty days to 2 December 1945. For this purpose, the Committee of Prosecutors adopts and ratifies the Answer filed on behalf of the United States on 12 November 1945 in response to the Gustav Krupp von Bohlen und Halbach motion, and the motion made by Robert H. Jackson in open Court on behalf of the United States of America, the Soviet Union and the Provisional Government of France. This motion is authorized by a resolution adopted at a meeting of the Committee of Prosecutors held 16 November 1945.

/s/ POKROVSKY
For the Union of Soviet Socialist Republics

/s/ F. DE MENTHON
For the Provisional Government of France

/s/ ROBERT H. JACKSON
For the United States of America

16 November 1945

ORDER OF THE TRIBUNAL REJECTING THE MOTION TO AMEND THE INDICTMENT BY ADDING THE NAME OF ALFRIED KRUPP VON BOHLEN AS A DEFENDANT

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

ORDER

ON CONSIDERATION of the motion to amend the indictment by adding the name of Alfried Krupp;

IT IS ORDERED that the motion be, and the same hereby is, rejected.

BY THE INTERNATIONAL MILITARY TRIBUNAL

/s/ GEOFFREY LAWRENCE
President.

Dated this 17th day
of November, 1945.

ATTEST:
/s/ WILLIAM L. MITCHELL
General Secretary

MEMORANDUM OF THE FRENCH PROSECUTION ON THE ORDER OF THE TRIBUNAL REJECTING THE MOTION TO AMEND THE INDICTMENT

Prosecution
International Military Tribunal
FRENCH DELEGATION

Annex 13

The Delegate of the Provisional Government of the French Republic of the Prosecution to the International Military Tribunal

to

The Members of the International Military Tribunal

Nuremberg, 20 November 1945

I have the honor to inform you that the decision rendered by you on 17 November at 1500 hours, to reject the motion signed the 16th by Mr. Justice JACKSON, Colonel POKROVSKY and M. de MENTHON cannot reject the declaration contained, according to which "The Committee of the Prosecutors created according to the Charter, designates Alfried KRUPP VON BOHLEN UND HALBACH as a defendant" because this declaration has been made as the last resort, under Article 14 b of the Charter.

Accordingly, Alfried KRUPP VON BOHLEN UND HALBACH is specifically designated as a major war criminal.

Consequently, I have the honor to inform you that the following declaration has been published by the Chief Prosecutors representing Great Britain and the Government of the French Republic:

"The Prosecutors representing the United States of America, the Provisional Government of the French Republic, and the Union of Socialist Soviet Republics having agreed in the designation of Alfried KRUPP as a major war criminal under Article 14 b of the Charter of the International Military Tribunal, the French and British Delegations are now engaged in the examination of the cases of other leading German industrialists, as well as certain other major war criminals, with a view to their attachment with Alfried KRUPP, in an indictment to be presented at a subsequent trial."

We will let you know of this new indictment as soon as it is established.

For the Delegate
/s/ CHARLES DUBOST

to: 4-The Members of the I.M.T.
1-General Secretary of the I.M.T.
3-The Members of the Prosecution (for information)
2-Files

MOTION ON BEHALF OF DEFENDANT STREICHER FOR POSTPONEMENT OF THE TRIAL AS TO HIM *

Schwaig, 5 November 1945

TO: The International Military Tribunal.

I

As defense counsel for the accused Julius Streicher I should like to request that it be considered whether the time of commencement of the Trial of the major war criminals fixed for 20 November could not be postponed to a later date. My reasons for this request are as follows:

It is not possible for me properly to prepare the defense of the accused Streicher by 20 November 1945, nor especially to work through all the relevant papers and documents which are in the possession of the Court nor to produce the evidence which the accused proposes to submit nor to discover or cause to be discovered the witnesses named by him. Therefore I propose a postponement of the commencement of the Trial for three or four weeks.

II

Furthermore I request that these documents, books, and other records in which reference is made by the Prosecution in support of the Indictment and which have been lodged with the Court, be put at my disposal for the purpose of inspection and thorough examination.

III

Lastly I take the liberty of suggesting that the films which have been taken of the atrocities in concentration camps and other criminal acts be shown to all the defense counsel of the persons accused as this seems necessary for the instruction of counsel for the defense.

/s/ Dr. MARX

* Part I of this motion was withdrawn by Dr. Marx, 15 November 1945, with permission of the Tribunal.

MEMORANDUM OF THE UNITED STATES PROSECUTION ON THE MOTION ON BEHALF OF DEFENDANT STREICHER

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

The United States of America, acting through its Chief Prosecutor, opposes the Motion of Counsel for Defendant STREICHER for the following reasons:

(1)

Since Counsel accepted the assignment to represent said defendant on 27 October 1945, he has been provided with a list of documents relied upon by the Prosecutor, and has been permitted to examine the documents and decrees referred to in such list; that such documents and exhibits will remain available to said Counsel throughout the Trial in the Defendant's Information Center in Room No. 54 of the Court House in Nuremberg where German-speaking custodians are available for assistance in expediting such examination.

(2)

Said defendant will have additional time to examine documentary evidence and further prepare his defense until the Prosecution presents its Case in Chief.

(3)

Defendant STREICHER is the only defendant who has requested postponement, and his application does not show any facts of hardship that would follow which would be limited to his particular defense. Further he does not show any specific injury to his defense if the Motion should be denied.

(4)

No objection is made to request in Section II of the Motion.

(5)

It is agreed that the film on Concentration Camps may be shown to Defense Counsel prior to the Trial.

WHEREFORE, it is respectfully prayed that the Motion be overruled.

ROBERT H. JACKSON
U. S. Chief of Counsel
by
/s/ ROBERT G. STOREY
Asst. U. S. Chief of Counsel

14 November 1945

MEMORANDUM OF THE BRITISH PROSECUTION ON THE MOTION ON BEHALF OF DEFENDANT STREICHER

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

The Chief Prosecutor of the United Kingdom of Great Britain and Northern Ireland respectfully opposes the application for an adjournment of Counsel for the Defendant STREICHER for the following reasons:

I.

1) Counsel for the Defendant Streicher accepted that position on 27 October 1945.
2) The Indictment against the said defendant and others was published on 18 October 1945 and served on the Defendant Streicher shortly thereafter.
3) The said Counsel has therefore had a considerable time to familiarise himself with the contents of the Indictment and especially these which, as appears in the part of the Appendix A, page 33 relating to the said defendant, are particularly relevant to him. In this connection the Chief Prosecutor respectfully refers to Page 5, Section IV(D)(3)(d) and page 26 Section X(A) and (B) of the Indictment.
4) This Chief Prosecutor further respectfully reminds the Court that the said Counsel has got a week from the filing of this answer until the commencement of the Trial, and in addition any time which may be occupied by the opening of the case and any matters preliminary to evidence being produced requiring cross-examination by Counsel for the Defendant Streicher.
5) If oral evidence is called relating to the part alleged to have been played by the said defendant and the said Counsel is not ready to cross-examine, he will be able to ask for a postponement of his cross-examination.

6) It is therefore respectfully submitted that this Application is premature, and that the time for applying for an adjournment to assist Counsel for the said defendant is when a difficulty actually arises at the Trial.

7) This Chief Prosecutor respectfully reminds the Tribunal of the words of General Nikitchenko, then its President, uttered at Berlin on 18 October 1945: "It must be understood that the Tribunal which is directed by the Charter to secure an expeditious hearing of the issues raised by the charges will not permit any delay either in the preparation of the defense or of the Trial."

II.

This Chief Prosecutor has no objection to the request made in Section II of the said application.

III.

This Chief Prosecutor has also no objection to the suggestion contained in Section III thereof.

/s/ HARTLEY SHAWCROSS

14 November 1945

MOTION OF THE SOVIET PROSECUTION FOR A PSYCHIATRIC EXAMINATION OF DEFENDANT STREICHER

CHIEF PROSECUTOR OF THE U.S.S.R.
TO THE INTERNATIONAL MILITARY TRIBUNAL

As shown by the Indictment of the major war criminals, Julius Streicher is to be tried in common with the other major war criminals and also for acts committed by himself, including, in particular, the incitement of the persecution of the Jews set forth in Count One and Count Four of the Indictment.

Thus, Streicher must bear the personal responsibility in the first place, for deriding the Jews, for their being tortured and murdered as a direct result of his propaganda and of that of his followers.

Pursuant to this Indictment the interrogations of Streicher were carried on.

At the interrogation of 10 November 1945 by representatives of the Delegation of the Soviet Union, Streicher declared quite unexpectedly that he "had been holding the viewpoint of Zionism."

If, in addition to this, we remember the motion of Streicher's Defense Counsel at the session of the Military Tribunal of 15 November 1945 of the irresponsibility (psychical) of his client, it seems to me evident that there is every reason for appointing psychiatric experts.

This measure should not encounter any difficulties, as right at this moment there are in Nuremberg a sufficient number of highly qualified specialists, who have just solved a similar problem in connection with the Defendant Hess.

An immediate examination would give the Tribunal, before even the beginning of the session, exact information as to whether the Defendant Streicher is responsible or irresponsible. There is still amply sufficient time to do so.

To resort to experts when the Trial had already begun, would undoubtedly delay the normal procedure of the Tribunal.

Given consideration to the above, I request that the Defendant Streicher be submitted to a psychiatric examination before the beginning of the Trial.

/s/ POKROVSKY
Deputy Chief Prosecutor of the U.S.S.R.

16 November 1945

ORDER OF THE TRIBUNAL REGARDING A PSYCHIATRIC EXAMINATION OF DEFENDANT STREICHER

17 November 1945

MEMORANDUM TO: DR. JEAN DELAY, Professor of Psychiatry at the Faculty of Medicine in Paris.

PROFESSOR EUGENE KRASNUSHKIN, Professor of the Scientific Research Institute in Moscow.

COLONEL PAUL L. SCHROEDER, U.S. Army.

The Tribunal desires that you examine the Defendant JULIUS STREICHER to determine:

1. Is he sane or insane?
2. Is he fit to appear before the Tribunal and present his defense?
3. If he is insane, was he for that reason incapable of understanding the nature and quality of his acts during the period of time covered by the Indictment?

FOR THE INTERNATIONAL MILITARY TRIBUNAL:

/s/ WILLIAM L. MITCHELL
Brig. General, GSC
General Secretary

REPORT OF EXAMINATION OF DEFENDANT STREICHER

18 November 1945

MEMORANDUM FOR: Brig. Gen. William L. Mitchell,
General Secretary.
FOR THE INTERNATIONAL MILITARY TRIBUNAL.

In response to the Tribunal's request that the Defendant Julius Streicher be examined, the undersigned psychiatrists did examine the Defendant Julius Streicher on 17 November 1945. The following examinations were made: Physical, neurological and psychiatric examinations.

In addition, the following documents were studied: All available interrogations, biographical data, inspection of examples of his written works, all psychological investigations and observations of the prison psychiatrist.

The following results of the examination and unanimous conclusions are submitted:

1) Defendant Julius Streicher is sane.
2) Defendant Julius Streicher is fit to appear before the Tribunal and to present his defense.
3) It being the unanimous conclusion of the examiners that Julius Streicher is sane, he is for that reason capable of understanding the nature and quality of his acts during the period of time covered by the Indictment.

/s/ DR. JEAN DELAY,
Professor of Psychiatry at the Faculty of Medicine in Paris.

/s/ EUGENE KRASNUSHKIN,
Professor of the Scientific Research Institute in Moscow.

/s/ COLONEL PAUL L. SCHROEDER, AUS,
Neuropsychiatric Consultant.

MOTION ON BEHALF OF DEFENDANT HESS FOR AN EXAMINATION BY A NEUTRAL EXPERT WITH REFERENCE TO HIS MENTAL COMPETENCE AND CAPACITY TO STAND TRIAL

TO: The General Secretary of the International Military Tribunal, Nuremberg.

On behalf of the Defendant Hess I hereby make the following application in my capacity of counsel:

I

A. That a medical expert be asked by the Court to make a thorough examination of the Defendant Hess and to report in an exhaustive manner as to whether the said defendant is

a) mentally competent,

b) capable of being tried,

and to summon the medical expert as a witness at the Trial.

The expert should be named to the Tribunal by the medical faculty of the University of Zürich or, if a competent expert should not be available there, by the medical faculty of Lausanne.

B. If the Court has already appointed an expert, that the expert applied for and appointed as in I A. be appointed and summoned to act together with the Court's own expert at the examination, and to testify in Court.

C. In the event of the Court's having already in the meantime ordered a report by a board of experts, that this panel be completed by the appointment, as well as the expert mentioned in I A., of another expert also to be named by the medical faculty of Zürich or Lausanne.

II

. . . .

Reasons:

Re I. The undersigned Counsel has grave doubts as to the mental responsibility and the fitness for Trial of the Defendant Hess owing to defendant's behavior during his numerous talks with him, and owing to the numerous publications, past and present, in the German and foreign press about the "Hess Case". The defendant is not in a position to give his Counsel any information whatsoever regarding the crimes imputed to him in the Indictment. The expression of his face is lifeless and his attitude towards his Counsel and in view of the impending Trial is the reverse of every natural reaction of any other defendant.

The defendant declares that he has completely lost his memory since a long period of time, the period of which he can no longer determine.

The official Party declaration issued by the German Propaganda Ministry of 12 May 1941 even mentions "a disease which had been increasing over a period of years" and of "signs of mental derangement". English press reports also state that defendant's conduct after his landing in Scotland showed an *absence* of "mental clarity".

Those facts are important for the allegation of Defendant's irresponsibility as a result of morbid disorder of his mental capacity, and sufficient grounds for application numbered I.

Those facts at the same time justify the examination of defendant's ability to plead. In the event of the Court's having already, on its own authority, entrusted a panel of experts with the preparation of a report, it would be fair to the defendant to concede the addition of *several* experts to be appointed by the Defense.

. . . .

/s/ VON ROHRSCHEIDT
Attorney

Nuremberg, 7 November 1945

ORDER OF THE TRIBUNAL REJECTING THE MOTION ON BEHALF OF DEFENDANT HESS, AND DESIGNATING A COMMISSION TO EXAMINE DEFENDANT HESS WITH REFERENCE TO HIS MENTAL COMPETENCE AND CAPACITY TO STAND TRIAL

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and THE UNION OF SOVIET SOCIALIST REPUBLICS

— against —

HERMANN WILHELM GÖRING, et al.,

Defendants.

ORDER

1. Counsel for the Defendant Hess has made application to the Tribunal to appoint an expert designated by the medical faculty of the University of Zürich or of Lausanne to examine the Defendant Hess with reference to his mental competence and capacity to stand trial. This application is denied.

2. The Tribunal has designated a commission composed of the following members:

Eugene Krasnushkin, M.D., Professor of Psychiatry,
Medical Institute of Moscow, assisted by

Eugene Sepp, M.D., Professor of Neurology,
Medical Institute of Moscow
Member, Academy of Medical Sciences, U.S.S.R., and

Nicolas Kurshakov, M.D., Professor of Medicine
Medical Institute of Moscow
Chief Internist, Commissariat of Public Health, U.S.S.R.

Lord Moran, M.D. F.R.C.P.
President of the Royal College of Physicians, assisted by

Dr. T. Rees, M.D. F.R.C.P.
Chief Consultant Psychiatrist to the War Office, and

Dr. George Riddoch, M.D. F.R.C.P.
Director of Neurology at the London Hospital and
Chief Consultant Neurologist to the War Office

Dr. Nolan D. C. Lewis, assisted by
Dr. D. Ewen Cameron and
Colonel Paul Schroeder, M.D.
Professor Jean Delay.

The Tribunal has requested the commission to examine the Defendant Hess and furnish a report on the mental state of the defendant with particular reference to the question whether he is able to take his part in the Trial, specifically:

1. Is the defendant able to plead to the Indictment?

2. Is the defendant sane or not, and on this last issue the Tribunal wishes to be advised whether the defendant is of sufficient intellect to comprehend the course of the proceedings of the Trial so as to make a proper defense, to challenge a witness to whom he might wish to object and to understand the details of the evidence.

3. The examiners have presented their reports to the Tribunal in the form which commends itself to them. It is directed that copies of the reports be furnished to each of the Chief Prosecutors and to Defense Counsel. The Tribunal will hear argument by the Prosecution and by Defense Counsel on the issues presented by the reports on Friday, 30 November at 4 P.M.

INTERNATIONAL MILITARY TRIBUNAL

/s/ GEOFFREY LAWRENCE
President

Dated at Nuremberg, Germany, this
24th day of November 1945.

REPORT OF COMMISSION TO EXAMINE DEFENDANT HESS *

A

To the International Military Tribunal:

In pursuance of the assignment by the Tribunal, we, the medical experts of the Soviet Delegation, together with the physicians of the English Delegation and in the presence of one representative of the American Medical Delegation, have examined Rudolf Hess and made a report on our examination of Mr. Hess together with our conclusions and interpretation of the behavior of Mr. Hess.

The statement of the general conclusions has been signed only by the physicians of the Soviet Delegation and by Professor Delay, the medical expert of the French Delegation.

Attachments: I. Conclusions, and

II. Report on the examination of Mr. Hess.

/s/ KRASNUSHKIN
Doctor of Medicine

/s/ E. SEPP
Honorary Scientist, Regular Member of the Academy of Medicine

/s/ KURSHAKOV
Doctor of Medicine, Chief Therapeutist of the Commissariat of Health of the U.S.S.R.

17 November 1945

Attachment I. Conclusions

After observation and an examination of Rudolf Hess the undersigned have reached the following conclusions:

1. No essential physical deviations from normality were observed.

2. His mental conditions are of a mixed type. He is an unstable person, which in technical terms is called a psychopathic personality. The data concerning his illness during the period of the last four years submitted by one of us who had him under observation in England, show that he had a delusion of being poisoned and other similar paranoic notions.

Partly as a reaction to the failure of his mission there, the abnormal manifestations increased and led to attempts at suicide.

* On the basis of this report and in view of the oral statement by the defendant during the Proceedings of 30 November 1945, the Court ruled 1 December 1945 that "Defendant Hess is capable of standing his trial at the present time, and the motion of Counsel for the Defense (requesting postponement) is, therefore, denied, and the Trial will proceed."

In addition to the above mentioned manifestations he has noticeable hysterical tendencies which caused a development of various symptoms, primarily, of amnesia that lasted from November 1943 to June of 1944 and resisted all attempts to be cured.

The amnesia symptom may disappear with changing circumstances.

The second period of amnesia started in February of 1945 and has lasted up through the present.

3. At present, he is not insane in the strict sense of the word. His amnesia does not prevent him completely from understanding what is going on around him but it will interfere with his ability to conduct his defense and to understand details of the past which would appear as factual data.

4. To clarify the situation we recommend that a narco-analysis be performed on him and, if the Court decides to submit him to trial, the problem should be subsequently re-examined from a psychiatric point of view.

The conclusion reached on November 14 by the physicians of the British Delegation, Lord Moran, Dr. T. Rees and Dr. G. Riddoch, and the physicians of the Soviet Delegation, Professors Krasnushkin, Sepp, and Kurshakov, was also arrived at on 15 November by the representative of the French Delegation, Professor Jean Delay.

After an examination of Mr. Hess which took place on 15 November 1945, the undersigned Professors and experts of the Soviet Delegation, Krasnushkin, Sepp and Kurshakov, and Professor Jean Delay, the expert from the French Delegation, have agreed on the following statement:

Mr. Hess categorically refused to be submitted to narco-analysis and resisted all other procedures intended to effect a cure of his amnesia, and stated that he would agree to undergo treatment only after the trial. The behavior of Mr. Hess makes it impossible to apply the methods suggested in Paragraph 4 of the report of 14 November and to follow the suggestion of that Paragraph in present form.

/s/ KRASNUSHKIN
Doctor of Medicine

/s/ E. SEPP
Honorary Scientist, Regular Member of the Academy of Medicine

/s/ KURSHAKOV
Doctor of Medicine, Chief Therapeutist of the Commissariat of Health of the U.S.S.R.

/s/ JEAN DELAY
Professor, School of Medicine in Paris.

16 November 1945

Attachment II. Report

According to the information obtained on 16 November 1945, during the interrogation of Rosenberg who had seen Hess immediately before the latter's flight to England, Hess gave no evidence of any abnormality either in appearance or conversation. He was, as usual, quiet and composed. Nor was it apparent that he might have been nervous. Prior to this, he was a calm person, habitually suffering pains in the region of the stomach.

As can be judged on the basis of the report of the English psychiatrist, Doctor Rees, who had Hess under observation from the first days of his flight to England, Hess, after the airplane crash, disclosed no evidence of a brain injury, but, upon arrest and incarceration, he began to give expression to ideas of persecution, he feared that he would be poisoned, or killed, and his death represented as a suicide, and that all this would be done by the English under the hypnotic influence of the Jews. Furthermore, these delusions of persecution were maintained up to the news of the catastrophe suffered by the German Army at Stalingrad when the manifestations were replaced by amnesia. According to Doctor Rees, the delusions of persecution and the amnesia were observed not to take place simultaneously. Furthermore, there were two attempts at suicide. A knife wound, inflicted during the second attempt, in the skin near the heart gave evidence of a clearly hysterico-demonstrative character. After this there was again observed a change from amnesia to delusions of persecution, and during this period he wrote that he was simulating his amnesia, and, finally, again entered into a state of amnesia which has been prolonged up to the present.

According to the examination of Rudolf Hess on 14 November 1945, the following was disclosed:

Hess complains of frequent cramping pains in the region of the stomach which appear independent of the taking of food, and headaches in the frontal lobes during mental strain, and, finally, of loss of memory.

In general his condition is marked by a pallor of the skin and a noticeable reduction in food intake.

Regarding the internal organs of Hess, the pulse is 92, and a weakening of the heart tone is noticeable. There has been no change in the condition of the other internal organs.

Concerning the neurological aspect, there are no symptoms of organic impairment of the nervous system.

Psychologically, Hess is in a state of clear consciousness; knows that he is in prison at Nuremberg under indictment as a war criminal; has read, and, according to his own words, is acquainted

with the charges against him. He answers questions rapidly and to the point. His speech is coherent, his thoughts formed with precision and correctness and they are accompanied by sufficient emotionally expressive movements. Also, there is no kind of evidence of paralogism. It should also be noted here, that the present psychological examination, which was conducted by Lieutenant Gilbert, Ph. D., bears out the testimony that the intelligence of Hess is normal and in some instances above the average. His movements are natural and not forced.

He has expressed no delirious fancies nor does he give any delirious explanation for the painful sensation in his stomach or the loss of memory, as was previously attested to by Doctor Rees, namely, when Hess ascribed them to poisoning. At the present time, to the question about the reason for his painful sensations and the loss of memory, Hess answers that this is for the doctors to know. According to his own assertions, he can remember almost nothing of his former life. The gaps in Hess' memory are ascertained only on the basis of the subjective changing of his testimony about his inability to remember this or that person or event given at different times. What he knows at the present time is, in his own words, what he allegedly learned only recently from the information of those around him and the films which have been shown him.

On 14 November Hess refused the injection of narcotics which were offered for the purpose of making an analysis of his psychological condition. On 15 November, in answer to Professor Delay's offer, he definitely and firmly refused narcosis and explained to him that, in general, he would take all measures to cure his amnesia only upon completion of the Trial.

All that has been exposed above, we are convinced, permits of the interpretation that the deviation from the norm in the behavior of Hess takes the following forms:

1. In the psychological personality of Hess there are no changes typical of the progressive schizophrenic disease, and therefore the delusions, from which he suffered periodically while in England, cannot be considered as manifestations of a schizophrenic paranoia, and must be recognized as the expression of a psychogenic paranoic reaction, that is, the psychologically comprehensible reaction of an unstable (psychologically) personality to the situation (the failure of his mission, arrest, and incarceration). Such an interpretation of the delirious statements of Hess in England is bespoken by their disappearance, appearance, and repeated disappearance depending on external circumstances which affected the mental state of Hess.

2. The loss of memory by Hess is not the result of some kind of mental disease but represents hysterical amnesia, the basis of which is a subconscious inclination toward self-defense as well as a delib-

erate and conscious tendency toward it. Such behavior often terminates when the hysterical person is faced with an unavoidable necessity of conducting himself correctly. Therefore, the amnesia of Hess may end upon his being brought to Trial.

3. Rudolf Hess, prior to his flight to England, did not suffer from any kind of insanity, nor is he now suffering from it. At the present time he exhibits hysterical behavior with signs of a conscious-intentional (simulated) character, which does not exonerate him from his responsibility under the Indictment.

/s/ KRASNUSHKIN
Doctor of Medicine

/s/ E. SEPP
Honorary Scientist, Regular Member of the Academy of Medicine

/s/ KURSHAKOV
Doctor of Medicine, Chief Therapeutist of the Commissariat of Health of the U.S.S.R.

17 November 1945

B

To: The International Military Tribunal.

The undersigned, having seen and examined Rudolf Hess, have come to the following conclusions:

1. There are no relevant physical abnormalities.

2. His mental state is of a mixed type. He is an unstable man and what is technically called a psychopathic personality. The evidence of his illness in the past four years, as presented by one of us who has had him under his care in England, indicates that he has had delusions of poisoning and other similar paranoid ideas.

Partly as a reaction to the failure of his mission these abnormal ideas got worse and led to a suicidal attempt.

In addition, he has a marked hysterical tendency, as shown by various symptoms, notably a loss of memory which lasted from November 1943 to June 1944, and which resisted all efforts at treatment. A second loss of memory began in February 1945 and has lasted till the present. This amnesic symptom will eventually clear when circumstances change.

3. At the moment he is not insane in the strict sense. His loss of memory will not entirely interfere with his comprehension of the proceedings, but it will interfere with his ability to make his defense and to understand details of the past which arise in evidence.

4. We recommend that further evidence should be obtained by narco-analysis, and that if the Court decide to proceed with the Trial, the question should afterwards be reviewed on psychiatric grounds.

/s/ J. R. REES
M.D., F.R.C.P.

/s/ GEORGE RIDDOCH
M.D., F.R.C.P.

/s/ MORAN
M.D., F.R.C.P.

19 November 1945.

C

20 November 1945

MEMORANDUM TO: Brigadier General Wm. L. Mitchell,
General Secretary for the International
Military Tribunal.

In response to request of the Tribunal that the Defendant Rudolf Hess be examined, the undersigned psychiatrists examined Rudolf Hess on 15 and 19 November 1945 in his cell in the Military Prison in Nuremberg.

The following examinations were made: physical, neurological, and psychological.

In addition, documents were studied bearing information concerning his personal development and career. Reports concerning the period of his stay in England were scrutinized. The results of all psychological, special psychometric examinations, and observations carried out by the prison psychiatrist and his staff were studied. Information was also derived from the official interrogation of the defendant on 14 and 16 November 1945.

(1) We find, as a result of our examinations and investigations, that Rudolf Hess is suffering from hysteria characterized in part by loss of memory. The nature of this loss of memory is such that it will not interfere with his comprehension of the proceedings, but it will interfere with his response to questions relating to his past and will interfere with his undertaking his defense.

In addition there is a conscious exaggeration of his loss of memory and a tendency to exploit it to protect himself against examination.

(2) We consider that the existing hysterical behavior which the defendant reveals, was initiated as a defense against the circumstances in which he found himself while in England; that it has now become in part habitual and that it will continue as long as

he remains under the threat of imminent punishment, even though it may interfere with his undertaking a more normal form of defense.

(3) It is the unanimous conclusion of the undersigned that Rudolf Hess is not insane at the present time in the strict sense of the word.

/s/ DR. JEAN DELAY
Professor of Psychiatry at the Faculty of Medicine in Paris

/s/ DR. NOLAN D. C. LEWIS
Professor of Psychiatry, Columbia University

/s/ DR. D. EWEN CAMERON
Professor of Psychiatry, McGill University

/s/ COL. PAUL L. SCHROEDER
A.U.S. Neuropsychiatric Consultant

REPORT OF PRISON PSYCHOLOGIST ON MENTAL COMPETENCE OF DEFENDANT HESS *

17 August 1946

SUBJECT: Competence of Defendant Rudolf Hess

TO : General Secretary, International Military Tribunal.

1. In compliance with the Tribunal's request, the following facts and studied opinions are submitted with respect to the competence of Rudolf Hess, based on my continual tests and observations from October 1945 to the present time, in the capacity of prison psychologist:

2. *Amnesia at beginning of trial.* There can be no doubt that Hess was in a state of virtually complete amnesia at the beginning of the trial. The opinions of the psychiatric commissions in this regard and with respect to his sanity have only been substantiated by prolonged subsequent observation.

3. *Recovery.* On the day of the special hearing in his case, 30 November 1945, Rudolf Hess did, in fact, recover his memory. The cause of his sudden recovery is an academic question, but the following event probably played a part: Just before the hearing I told Hess (as a challenge) that he might be considered incompetent at that time and excluded from the proceedings, but I would sometimes see him in his cell. Hess seemed startled and said he thought he *was* competent. Then he gave his declaration of malingering in court, apparently as a face-saving device. In later conversations he admitted to me that he had not been malingering, and that he knew he had lost his memory twice in England. During the months of December 1945, and January 1946, his memory was quite in order.

4. *Relapse.* At the end of January I began to notice the beginnings of memory failure. This increased progressively during February, until he returned to a state of virtually complete amnesia again about the beginning of March, and he has remained in that state ever since. (At the beginning of relapse, Hess expressed anxiety over it, saying that no one would believe him this time after he had said he had faked his amnesia the first time.) The amnesia is progressive, each day's events being quickly forgotten. At present his memory span is about one-half day, and his apprehension span has dropped from 7 to 4 digits repeated correctly immediately after hearing.

* This report was referred to Counsel for Defendant Hess by order of the Tribunal, 20 August 1946, in reference to the motion of 2 August 1946 on behalf of the defendant. This motion, which reviewed at length the previous examinations and psychiatric history of Defendant Hess, was a request "to subject the Defendant Hess once more . . . to an examination by psychiatric experts with regard to his ability to stand trial and his soundness of mind."

5. *Competence and sanity.* I have read the application of Dr. Seidl both in German and in English, and wish to make the following comment:

a. Lay discussion of psychiatric concepts does not help throw any light on this case, because psychiatrists themselves are not in agreement on the definition of terms like "psychopathic constitution", "hysterical reaction", etc., and these terms have entirely different meanings in English and German usage.

b. The psychiatric commissions have agreed, and my further observations have confirmed, that Hess is *not* insane (in the legal sense of being incapable of distinguishing right from wrong or realizing the consequences of his acts).

c. Hess did recover his memory for a sufficient period of time (2—3 months) to give his counsel ample cooperation in the preparation of his defense. If he failed to do so, it was the result of a negativistic personality peculiarity, which I have also observed, and not incompetence.

d. There has been no indication in his case history or present behavior that he was insane at the time of the activities for which he has been indicted. His behavior throughout the trial has also shown sufficient insight and reason to dispel any doubts about his sanity. (He may have gone through a psychotic episode in England, but that in no way destroys the validity of the previous two statements. He has exhibited signs of a "persecution complex" here too, but these have not been of psychotic proportions.)

e. In my opinion, another examination by a psychiatric commission at this time would not throw any further light on the case, because the clinical picture is the same and the conclusions would necessarily be the same as those of the original psychiatric commissions, to wit: Hess is not insane but suffering from hysterical amnesia. I have discussed this case with the present prison psychiatrist, Lt. Col. Dunn, who has recently examined Hess, and he is also of the opinion that Hess's present mental state is apparently the same as that indicated in the original psychiatric reports, which he has read.

/s/ G. M. GILBERT, Ph.D.
Prison Psychologist

MOTION ADOPTED BY ALL DEFENSE COUNSEL *

19 November 1945

Two frightful world wars and the violent collisions by which peace among the States was violated during the period between these enormous and world embracing conflicts caused the tortured peoples to realize that a true order among the States is not possible as long as such State, by virtue of its sovereignty, has the right to wage war at any time and for any purpose. During the last decades public opinion in the world challenged with ever increasing emphasis the thesis that the decision of waging war is beyond good and evil. A distinction is being made between just and unjust wars and it is asked that the Community of States call to account the State which wages an unjust war and deny it, should it be victorious, the fruits of its outrage. More than that, it is demanded that not only should the guilty State be condemned and its liability be established, but that furthermore those men who are responsible for unleashing the unjust war be tried and sentenced by an International Tribunal. In that respect one goes now-a-days further than even the strictest jurists since the early middle ages. This thought is at the basis of the first three counts of the Indictment which have been put forward in this Trial, to wit, the Indictment for Crimes against Peace. Humanity insists that this idea should in the future be more than a demand, that it should be valid international law.

However, today it is not as yet valid international law. Neither in the statute of the League of Nations, world organization against war, nor in the Kellogg-Briand Pact, nor in any other of the treaties which were concluded after 1918 in that first upsurge of attempts to ban aggressive warfare, has this idea been realized. But above all the practice of the League of Nations has, up to the very recent past, been quite unambiguous in that regard. On several occasions the League had to decide upon the lawfulness or unlawfulness of action by force of one member against another member, but it always condemned such action by force merely as a violation of international law by the State, and never thought of bringing up for trial the statesmen, generals, and industrialists of the state which recurred to force. And when the new organization for world peace was set up last summer in San Francisco, no new legal maxim was created under which an international tribunal would inflict punishment upon those who unleased an unjust war. The present Trial an, therefore, as far as Crimes against Peace shall be avenged, not

* The Tribunal rejected this motion 21 November 1945, ruling that insofar as it was a plea to the jurisdiction of the Tribunal it was in conflict with Article 3 of the Charter.

invoke existing international law, it is rather a proceeding pursuant to a new penal law, a penal law enacted only after the crime. This is repugnant to a principle of jurisprudence sacred to the civilized world, the partial violation of which by Hitler's Germany has been vehemently discountenanced outside and inside the Reich. This principle is to the effect that only he can be punished who offended against a law in existence at the time of the commission of the act and imposing a penalty. This maxim is one of the great fundamental principles of the political systems of the Signatories of the Charter for this Tribunal themselves, to wit, of England since the Middle Ages, of the United States since their creation, of France since its great revolution, and the Soviet Union. And recently when the Control Council for Germany enacted a law to assure the return to a just administration of penal law in Germany, it decreed in the first place the restoration of the maxim, "No punishment without a penal law in force at the time of the commission of the act". This maxim is precisely not a rule of expediency but it derives from the recognition of the fact that any defendant must needs consider himself unjustly treated if he is punished under an *ex post facto* law

The Defense of all defendants would be neglectful of their duty if they acquiesced silently in a deviation from existing international law and in disregard of a commonly recognized principle of modern penal jurisprudence and if they suppressed doubts which are openly expressed today outside Germany, all the more so as it is the unanimous conviction of the Defense that this Trial could serve in a high degree the progress of world order even if, nay in the very instance where it did not depart from existing international law. Wherever the Indictment charges acts which were not punishable at the time the Tribunal would have to confine itself to a thorough examination and findings as to what acts were committed, for which purposes the Defense would cooperate to the best of their ability as true assistants of the Court. Under the impact of these findings of the Tribunal the States of the international legal community would then create a new law under which those who in the future would be guilty of starting an unjust war would be threatened with punishment by an International Tribunal.

The Defense are also of the opinion that other principles of a penal character contained in the Charter are in contradiction with the maxim, *"Nulla Poena Sine Lege"*.

Finally, the Defense consider it their duty to point out at this juncture another peculiarity of this Trial which departs from the commonly recognized principles of modern jurisprudence. The Judges have been appointed exclusively by States which were the one party in this war. This one party to the proceeding is all in one: creator of the statute of the Tribunal and of the rules of law,

prosecutor and judge. It used to be until now the common legal conception that this should not be so; just as the United States of America, as the champion for the institution of international arbitration and jurisdiction, always demanded that neutrals, or neutrals and representatives of all parties, should be called to the Bench. This principle has been realized in an exemplary manner in the case of the Permanent Court of International Justice at The Hague.

In view of the variety and difficulty of these questions of law the Defense hereby pray:

That the Tribunal direct that an opinion be submitted by internationally recognized authorities on international law on the legal elements of this Trial under the Charter of the Tribunal.

On behalf of the attorneys for all defendants who are present.

/s/ DR. STAHMER

JUDGMENT

On 8 August 1945, the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the United States of America, the Provisional Government of the French Republic, and the Government of the Union of Soviet Socialist Republics entered into an Agreement establishing this Tribunal for the Trial of War Criminals whose offenses have no particular geographical location. In accordance with Article 5, the following Governments of the United Nations have expressed their adherence to the Agreement:

Greece, Denmark, Yugoslavia, the Netherlands, Czechoslovakia, Poland, Belgium, Ethiopia, Australia, Honduras, Norway, Panama, Luxembourg, Haiti, New Zealand, India, Venezuela, Uruguay, and Paraguay.

By the Charter annexed to the Agreement, the constitution, jurisdiction, and functions of the Tribunal were defined.

The Tribunal was invested with power to try and punish persons who had committed Crimes against Peace, War Crimes, and Crimes against Humanity as defined in the Charter.

The Charter also provided that at the Trial of any individual member of any group or organization the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organization of which the individual was a member was a criminal organization.

In Berlin, on 18 October 1945, in accordance with Article 14 of the Charter, an Indictment was lodged against the defendants named in the caption above, who had been designated by the Committee of the Chief Prosecutors of the signatory Powers as major war criminals.

A copy of the Indictment in the German language was served upon each defendant in custody, at least 30 days before the Trial opened.

This Indictment charges the defendants with Crimes against Peace by the planning, preparation, initiation, and waging of wars of aggression, which were also wars in violation of international treaties, agreements, and assurances; with War Crimes; and with Crimes against Humanity. The defendants are also charged with participating in the formulation or execution of a common plan or conspiracy to commit all these crimes. The Tribunal was further asked by the Prosecution to declare all the named groups or organizations to be criminal within the meaning of the Charter.

The Defendant Robert Ley committed suicide in prison on 25 October 1945. On 15 November 1945 the Tribunal decided that the Defendant Gustav Krupp von Bohlen und Halbach could not

then be tried because of his physical and mental condition, but that the charges against him in the Indictment should be retained for trial thereafter, if the physical and mental condition of the defendant should permit. On 17 November 1945 the Tribunal decided to try the Defendant Bormann in his absence under the provisions of Article 12 of the Charter. After argument, and consideration of full medical reports, and a statement from the defendant himself, the Tribunal decided on 1 December 1945 that no grounds existed for a postponement of the Trial against the Defendant Hess because of his mental condition. A similar decision was made in the case of the Defendant Streicher.

In accordance with Articles 16 and 23 of the Charter, Counsel were either chosen by the defendants in custody themselves, or at their request were appointed by the Tribunal. In his absence the Tribunal appointed Counsel for the Defendant Bormann, and also assigned Counsel to represent the named groups or organizations.

The Trial, which was conducted in four languages — English, Russian, French, and German — began on 20 November 1945, and pleas of "Not Guilty" were made by all the defendants except Bormann.

The hearing of evidence and the speeches of Counsel concluded on 31 August 1946.

Four hundred and three open sessions of the Tribunal have been held. Thirty-three witnesses gave evidence orally for the Prosecution against the individual defendants and 61 witnesses, in addition to 19 of the defendants, gave evidence for the Defense.

A further 143 witnesses gave evidence for the Defense by means of written answers to interrogatories.

The Tribunal appointed Commissioners to hear evidence relating to the organizations, and 101 witnesses were heard for the Defense before the Commissioners, and 1,809 affidavits from other witnesses were submitted. Six reports were also submitted, summarizing the contents of a great number of further affidavits.

Thirty-eight thousand affidavits, signed by 155,000 people, were submitted on behalf of the Political Leaders, 136,213 on behalf of the SS, 10,000 on behalf of the SA, 7,000 on behalf of the SD, 3,000 on behalf of the General Staff and OKW, and 2,000 on behalf of the Gestapo.

The Tribunal itself heard 22 witnesses for the organizations. The documents tendered in evidence for the Prosecution of the individual defendants and the organizations numbered several thousands. A complete stenographic record of everything said in Court has been made, as well as an electrical recording of all the proceedings.

Copies of all the documents put in evidence by the Prosecution have been supplied to the Defense in the German language. The

applications made by the defendants for the production of witnesses and documents raised serious problems in some instances, on account of the unsettled state of the Country. It was also necessary to limit the number of witnesses to be called, in order to have an expeditious hearing, in accordance with Article 18 (c) of the Charter. The Tribunal, after examination, granted all those applications which in its opinion were relevant to the defense of any defendant or named group or organization, and were not cumulative. Facilities were provided for obtaining those witnesses and documents granted through the office of the General Secretary established by the Tribunal.

Much of the evidence presented to the Tribunal on behalf of the Prosecution was documentary evidence, captured by the Allied armies in German army headquarters, Government buildings, and elsewhere. Some of the documents were found in salt mines, buried in the ground, hidden behind false walls and in other places thought to be secure from discovery. The case, therefore, against the defendants rests in a large measure on documents of their own making, the authenticity of which has not been challenged except in one or two cases.

The Charter Provisions

The individual defendants are indicted under Article 6 of the Charter, which is as follows:

"Article 6. The Tribunal established by the Agreement referred to in Article 1 hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organizations, committed any of the following crimes:

"The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

"(a) Crimes Against Peace: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing:

"(b) War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private

property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity:

"(c) Crimes Against Humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial, or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

"Leaders, organizers, instigators, and accomplices, participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan."

These provisions are binding upon the Tribunal as the law to be applied to the case. The Tribunal will later discuss them in more detail; but, before doing so, it is necessary to review the facts. For the purpose of showing the background of the aggressive war and war crimes charged in the Indictment, the Tribunal will begin by reviewing some of the events that followed the first World War, and in particular, by tracing the growth of the Nazi Party under Hitler's leadership to a position of supreme power from which it controlled the destiny of the whole German People, and paved the way for the alleged commission of all the crimes charged against the defendants.

The Nazi Regime in Germany
the Origin and Aims of the Nazi Party

On 5 January 1919, not two months after the conclusion of the Armistice which ended the first World War, and six months before the signing of the peace treaties at Versailles, there came into being in Germany a small political party called the German Labor Party. On 12 September 1919 Adolf Hitler became a member of this Party, and at the first public meeting held in Munich, on 24 February 1920, he announced the Party's program. That program, which remained unaltered until the Party was dissolved in 1945, consisted of 25 points, of which the following five are of particular interest on account of the light they throw on the matters with which the Tribunal is concerned:

"*Point 1.* We demand the unification of all Germans in the Greater Germany, on the basis of the right of self-determination of peoples.

Point 2. We demand equality of rights for the German People in respect to the other nations; abrogation of the peace treaties of Versailles and Saint Germain.

Point 3. We demand land and territory for the sustenance of our people, and the colonization of our surplus population.

Point 4. Only a member of the race can be a citizen. A member of the race can only be one who is of German blood, without consideration of creed. Consequently no Jew can be a member of the race . . . .

Point 22. We demand abolition of the mercenary troops and formation of a national army."

Of these aims, the one which seems to have been regarded as the most important, and which figured in almost every public speech, was the removal of the "disgrace" of the Armistice, and the restrictions of the peace treaties of Versailles and Saint Germain. In a typical speech at Munich on 13 April 1923, for example, Hitler said with regard to the Treaty of Versailles:

"The Treaty was made in order to bring 20 million Germans to their deaths, and to ruin the German Nation . . . . At its foundation our movement formulated three demands:

1. Setting aside of the Peace Treaty.
2. Unification of all Germans.
3. Land and soil to feed our Nation."

The demand for the unification of all Germans in the Greater Germany was to play a large part in the events preceding the seizure of Austria and Czechoslovakia; the abrogation of the Treaty of Versailles was to become a decisive motive in attempting to justify the policy of the German Government; the demand for land was to be the justification for the acquisition of "living space" at the expense of other nations; the expulsion of the Jews from membership of the race of German blood was to lead to the atrocities against the Jewish people; and the demand for a national army was to result in measures of rearmament on the largest possible scale, and ultimately to war.

On 29 July 1921, the Party which had changed its name to National Sozialistische Deutsche Arbeiter Partei (NSDAP) was reorganized, Hitler becoming the first "Chairman". It was in this year that the Sturmabteilung or SA was founded, with Hitler at its head, as a private para-military force, which allegedly was to be used for the purpose of protecting NSDAP leaders from attack by rival political parties, and preserving order at NSDAP meetings, but in reality was used for fighting political opponents on the streets. In March 1923 the Defendant Göring was appointed head of the SA.

The procedure within the Party was governed in the most absolute way by the "Leadership Principle" (Führerprinzip).

According to the principle, each Führer has the right to govern, administer, or decree, subject to no control of any kind and at his complete discretion, subject only to the orders he received from above.

This principle applied in the first instance to Hitler himself as the leader of the Party, and in a lesser degree to all other Party officials. All members of the Party swore an oath of "eternal allegiance" to the leader.

There were only two ways in which Germany could achieve the three main aims above-mentioned, by negotiation, or by force. The 25 points of the NSDAP program do not specifically mention the methods on which the leaders of the Party proposed to rely, but the history of the Nazi regime shows that Hitler and his followers were only prepared to negotiate on the terms that their demands were conceded, and that force would be used if they were not.

On the night of 8 November 1923, an abortive putsch took place in Munich. Hitler and some of his followers burst into a meeting in the Bürgerbräu Cellar, which was being addressed by the Bavarian Prime Minister Kahr, with the intention of obtaining from him a decision to march forthwith on Berlin. On the morning of 9 November, however, no Bavarian support was forthcoming, and Hitler's demonstration was met by the armed forces of the Reichswehr and the police. Only a few volleys were fired; and after a dozen of his followers had been killed, Hitler fled for his life, and the demonstration was over. The Defendants Streicher, Frick, and Hess all took part in the attempted rising. Hitler was later tried for high treason, and was convicted and sentenced to imprisonment. The SA was outlawed. Hitler was released from prison in 1924 and in 1925 the Schutzstaffeln, or SS, was created, nominally to act as his personal bodyguard, but in reality to terrorize political opponents. This was also the year of the publication of *Mein Kampf,* containing the political views and aims of Hitler, which came to be regarded as the authentic source of Nazi doctrine.

The Seizure of Power

In the eight years that followed the publication of *Mein Kampf,* the NSDAP greatly extended its activities throughout Germany, paying particular attention to the training of youth in the ideas of National Socialism. The first Nazi youth organization had come into existence in 1922, but it was in 1925 that the Hitler Jugend was officially recognized by the NSDAP. In 1931 Baldur von Schirach, who had joined the NSDAP in 1925, became Reich Youth Leader of the NSDAP.

The Party exerted every effort to win political support from the German People. Elections were contested both for the Reichstag and the Landtage. The NSDAP leaders did not make any serious

attempt to hide the fact that their only purpose in entering German political life was in order to destroy the democratic structure of the Weimar Republic, and to substitute for it a National Socialist totalitarian regime which would enable them to carry out their avowed policies without opposition. In preparation for the day when he would obtain power in Germany, Hitler in January 1929, appointed Heinrich Himmler as Reichsführer SS with the special task of building the SS into a strong but elite group which would be dependable in all circumstances.

On 30 January 1933 Hitler succeeded in being appointed Chancellor of the Reich by President Von Hindenburg. The Defendants Göring, Schacht, and Von Papen were active in enlisting support to bring this about. Von Papen had been appointed Reich Chancellor on 1 June 1932. On 14 June he rescinded the decree of the Brüning Cabinet of 13 April 1932, which had dissolved the Nazi para-military organizations, including the SA and the SS. This was done by agreement between Hitler and Von Papen, although Von Papen denies that it was agreed as early as 28 May, as Dr. Hans Volz asserts in "Dates from the History of the NSDAP"; but that it was the result of an agreement was admitted in evidence by Von Papen.

The Reichstag elections of 31 July 1932 resulted in a great accession of strength to the NSDAP, and Von Papen offered Hitler the post of Vice Chancellor, which he refused, insisting upon the Chancellorship itself. In November 1932 a petition signed by leading industrialists and financiers was presented to President Hindenburg, calling upon him to entrust the Chancellorship to Hitler; and in the collection of signatures to the petition Schacht took a prominent part.

The election of 6 November, which followed the defeat of the Government, reduced the number of NSDAP members, but Voh Papen made further efforts to gain Hitler's participation, without success. On 12 November Schacht wrote to Hitler:

> "I have no doubt that the present development of things can only lead to your becoming Chancellor. It seems as if our attempt to collect a number of signatures from business circles for this purpose was not altogether in vain . . . ."

After Hitler's refusal of 16 November, Von Papen resigned, and was succeeded by General Von Schleicher; but Von Papen still continued his activities. He met Hitler at the house of the Cologne banker Von Schröder on 4 January 1933, and attended a meeting at the Defendant Von Ribbentrop's house on 22 January, with the Defendant Göring and others. He also had an interview with President Hindenburg on 9 January, and from 22 January onwards he discussed officially with Hindenburg the formation of a Hitler Cabinet.

Hitler held his first Cabinet meeting on the day of his appointment as Chancellor, at which the Defendants Göring, Frick, Funk, Von Neurath, and Von Papen were present in their official capacities. On 28 February 1933 the Reichstag building in Berlin was set on fire. This fire was used by Hitler and his Cabinet as a pretext for passing on the same day a decree suspending the constitutional guarantees of freedom. The decree was signed by President Hindenburg and countersigned by Hitler and the Defendant Frick, who then occupied the post of Reich Minister of the Interior. On 5 March elections were held, in which the NSDAP obtained 288 seats of the total of 647. The Hitler Cabinet was anxious to pass an "Enabling Act" that would give them full legislative powers, including the power to deviate from the Constitution. They were without the necessary majority in the Reichstag to be able to do this constitutionally. They therefore made use of the decree suspending the guarantees of freedom and took into so-called "protective custody" a large number of Communist deputies and Party officials. Having done this, Hitler introduced the "Enabling Act" into the Reichstag, and after he had made it clear that if it was not passed, further forceful measures would be taken, the act was passed on 24 March 1933.

The Consolidation of Power

The NSDAP, having achieved power in this way, now proceeded to extend its hold on every phase of German life. Other political parties were persecuted, their property and assets confiscated, and many of their members placed in concentration camps. On 26 April 1933 the Defendant Göring founded in Prussia the Geheime Staatspolizei, or Gestapo, as a secret police, and confided to the deputy leader of the Gestapo that its main task was to eliminate political opponents of National Socialism and Hitler. On 14 July 1933 a law was passed declaring the NSDAP to be the only political party, and making it criminal to maintain or form any other political party.

In order to place the complete control of the machinery of Government in the hands of the Nazi leaders, a series of laws and decrees were passed which reduced the powers of regional and local governments throughout Germany, transforming them into subordinate divisions of the Government of the Reich. Representative assemblies in the Laender were abolished, and with them all local elections. The Government then proceeded to secure control of the Civil Service. This was achieved by a process of centralization, and by a careful sifting of the whole Civil Service administration. By a law of 7 April it was provided that officials "who were of non-Aryan descent" should be retired; and it was also decreed that "officials who because of their previous political activity do not offer security that they will exert themselves for the national state without reservation shall be discharged." The law of 11 April 1933

provided for the discharge of "all civil servants who belong to the Communist Party." Similarly, the judiciary was subjected to control. Judges were removed from the bench for political or racial reasons. They were spied upon and made subject to the strongest pressure to join the Nazi Party as an alternative to being dismissed. When the Supreme Court acquitted three of the four defendants charged with complicity in the Reichstag fire, its jurisdiction in cases of treason was thereafter taken away and given to a newly established "People's Court" consisting of two judges and five officials of the Party. Special courts were set up to try political crimes and only party members were appointed as judges. Persons were arrested by the SS for political reasons, and detained in prisons and concentration camps; and the judges were without power to intervene in any way. Pardons were granted to members of the Party who had been sentenced by the judges for proved offenses. In 1935 several officials of the Hohenstein concentration camp were convicted of inflicting brutal treatment upon the inmates. High Nazi officials tried to influence the Court, and after the officials had been convicted, Hitler pardoned them all. In 1942 "judges' letters" were sent to all German judges by the Government, instructing them as to the "general lines" that they must follow.

In their determination to remove all sources of opposition, the NSDAP leaders turned their attention to the trade unions, the churches, and the Jews. In April 1933 Hitler ordered the late Defendant Ley, who was then staff director of the political organization of the NSDAP, "to take over the trade unions." Most of the trade unions of Germany were joined together in two large federations, the "Free Trade Unions" and the "Christian Trade Unions." Unions outside these two large federations contained only 15 percent of the total union membership. On 21 April 1933 Ley issued an NSDAP directive announcing a "coordination action" to be carried out on 2 May against the Free Trade Unions. The directive ordered that SA and SS men were to be employed in the planned "occupation of trade union properties and for the taking into protective custody of personalities who come into question." At the conclusion of the action the official NSDAP press service reported that the National Socialist Factory Cells Organization had "eliminated the old leadership of Free Trade Unions" and taken over the leadership themselves. Similarly, on 3 May 1933 the NSDAP press service announced that the Christian trade unions "have unconditionally subordinated themselves to the leadership of Adolf Hitler." In place of the trade unions the Nazi Government set up a Deutsche Arbeits Front (DAF), controlled by the NSDAP, and which, in practice, all workers in Ger-

many were compelled to join. The chairmen of the unions were taken into custody and were subjected to ill-treatment, ranging from assault and battery to murder.

In their effort to combat the influence of the Christian churches, whose doctrines were fundamentally at variance with National Socialist philosophy and practice, the Nazi Government proceeded more slowly. The extreme step of banning the practice of the Christian religion was not taken, but year by year efforts were made to limit the influence of Christianity on the German people, since, in the words used by the Defendant Bormann to the Defendant Rosenberg in an official letter, "the Christian religion and National Socialist doctrines are not compatible." In the month of June 1941 the Defendant Bormann issued a secret decree on the relation of Christianity and National Socialism. The decree stated that:

> "For the first time in German history the Führer consciously and completely has the leadership in his own hand. With the Party, its components and attached units, the Führer has created for himself and thereby the German Reich Leadership, an instrument which makes him independent of the Treaty .... More and more the people must be separated from the churches and their organs, the pastor .... Never again must an influence on leadership of the people be yielded to the churches. This influence must be broken completely and finally. Only the Reich Government and by its direction the Party, its components and attached units, have a right to leadership of the people."

From the earliest days of the NSDAP, anti-Semitism had occupied a prominent place in National Socialist thought and propaganda. The Jews, who were considered to have no right to German citizenship, were held to have been largely responsible for the troubles with which the Nation was afflicted following on the war of 1914-18. Furthermore, the antipathy to the Jews was intensified by the insistence which was laid upon the superiority of the Germanic race and blood. The second chapter of Book 1 of *Mein Kampf* is dedicated to what may be called the "Master Race" theory, the doctrine of Aryan superiority over all other races, and the right of Germans in virtue of this superiority to dominate and use other peoples for their own ends. With the coming of the Nazis into power in 1933, persecution of the Jews became official state policy. On 1 April 1933, a boycott of Jewish enterprises was approved by the Nazi Reich Cabinet, and during the following years a series of anti-Semitic laws was passed, restricting the activities of Jews in the civil service, in the legal profession, in journalism and in the armed forces. In September 1935, the so-called Nuremberg Laws were passed, the most important effect of which was to deprive Jews

of German citizenship. In this way the influence of Jewish elements on the affairs of Germany was extinguished, and one more potential source of opposition to Nazi policy was rendered powerless.

In any consideration of the crushing of opposition, the massacre of 30 June 1934 must not be forgotten. It has become known as the "Röhm Purge" or "the blood bath", and revealed the methods which Hitler and his immediate associates, including the Defendant Göring, were ready to employ to strike down all opposition and consolidate their power. On that day Röhm, the Chief of Staff of the SA since 1931, was murdered by Hitler's orders, and the "Old Guard" of the SA was massacred without trial and without warning. The opportunity was taken to murder a large number of people who at one time or another had opposed Hitler.

The ostensible ground for the murder of Röhm was that he was plotting to overthrow Hitler, and the Defendant Göring gave evidence that knowledge of such a plot had come to his ears. Whether this was so or not it is not necessary to determine.

On 3 July the Cabinet approved Hitler's action and described it as "legitimate self-defense by the State."

Shortly afterwards Hindenburg died, and Hitler became both Reich President and Chancellor. At the Nazi-dominated plebiscite, which followed, 38 million Germans expressed their approval, and with the Reichswehr taking the oath of allegiance to the Führer, full power was now in Hitler's hands.

Germany had accepted the dictatorship with all its methods of terror, and its cynical and open denial of the rule of law.

Apart from the policy of crushing the potential opponents of their regime, the Nazi Government took active steps to increase its power over the German population. In the field of education, everything was done to ensure that the youth of Germany was brought up in the atmosphere of National Socialism and accepted National Socialist teachings. As early as 7 April 1933 the law reorganizing the civil service had made it possible for the Nazi Government to remove all "subversive and unreliable teachers"; and this was followed by numerous other measures to make sure that the schools were staffed by teachers who could be trusted to teach their pupils the full meaning of the National Socialist creed. Apart from the influence of National Socialist teaching in the schools, the Hitler Youth Organization was also relied upon by the Nazi Leaders for obtaining fanatical support from the younger generation. The Defendant Von Schirach, who had been Reich Youth Leader of the NSDAP since 1931, was appointed Youth Leader of the German Reich in June 1933. Soon all the youth organizations had been either dissolved or absorbed by the Hitler Youth, with the exception of the "Catholic Youth. The Hitler Youth was organized on

strict military lines, and as early as 1933 the Wehrmacht was cooperating in providing pre-military training for the Reich Youth.

The Nazi Government endeavored to unite the Nation in support of their policies through the extensive use of propaganda. A number of agencies was set up, whose duty was to control and influence the press, the radio, films, publishing firms, etc., in Germany, and to supervise entertainment and cultural and artistic activities. All these agencies came under Goebbels' Ministry of the People's Enlightenment and Propaganda, which together with a corresponding organization in the NSDAP and the Reich Chamber of Culture, was ultimately responsible for exercising this supervision. The Defendant Rosenberg played a leading part in disseminating the National Socialist doctrines on behalf of the Party, and the Defendant Fritzsche, in conjunction with Goebbels, performed the same task for the State.

The greatest emphasis was laid on the supreme mission of the German People to lead and dominate by virtue of their Nordic blood and racial purity; and the ground was thus being prepared for the acceptance of the idea of German world supremacy.

Through the effective control of the radio and the press, the German People, during the years which followed 1933, were subjected to the most intensive propaganda in furtherance of the regime. Hostile criticism, indeed criticism of any kind, was forbidden, and the severest penalties were imposed on those who indulged in it.

Independent judgment, based on freedom of thought, was rendered quite impossible.

Measures of Rearmament

During the years immediately following Hitler's appointment as Chancellor, the Nazi Government set about re-organizing the economic life of Germany, and in particular the armament industry. This was done on a vast scale and with extreme thoroughness.

It was necessary to lay a secure financial foundation for the building of armaments, and in April 1936 the Defendant Göring was appointed coordinator for raw materials and foreign exchange, and empowered to supervise all State and Party activities in these fields. In this capacity he brought together the War Minister, the Minister of Economics, the Reich Finance Minister, the President of the Reichsbank and the Prussian Finance Minister to discuss problems connected with war mobilization, and on 27 May 1936, in addressing these men, Göring opposed any financial limitation of war production and added that "all measures are to be considered from the standpoint of an assured waging of war." At the Party Rally in Nuremberg in 1936, Hitler announced the establishment of the

Four Year Plan and the appointment of Göring as the Plenipotentiary in charge. Göring was already engaged in building a strong air force and on 8 July 1938 he announced to a number of leading German aircraft manufacturers that the German Air Force was already superior in quality and quantity to the English. On 14 October 1938, at another conference, Göring announced that Hitler had instructed him to organize a gigantic armament program, which would make insignificant all previous achievements. He said that he had been ordered to build as rapidly as possible an air force five times as large as originally planned, to increase the speed of the rearmament of the navy and army, and to concentrate on offensive weapons, principally heavy artillery and heavy tanks. He then laid down a specific program designed to accomplish these ends. The extent to which rearmament had been accomplished was stated by Hitler in his memorandum of 9 October 1939, after the campaign in Poland. He said:

> "The military application of our people's strength has been carried through to such an extent that within a short time at any rate it cannot be markedly improved upon by any manner of effort . . . .
>
> "The warlike equipment of the German people is at present larger in quantity and better in quality for a greater number of German divisions than in the year 1914. The weapons themselves, taking a substantial cross-section, are more modern than is the case of any other country in the world at this time. They have just proved their supreme war worthiness in their victorious campaign . . . . There is no evidence available to show that any country in the world disposes of a better total ammunition stock than the Reich . . . . The A. A. artillery is not equalled by any country in the world."

In this reorganization of the economic life of Germany for military purposes, the Nazi Government found the German armament industry quite willing to cooperate, and to play its part in the rearmament program. In April 1933 Gustav Krupp von Bohlen submitted to Hitler on behalf of the Reich Association of German Industry a plan for the reorganization of German industry, which he stated was characterized by the desire to coordinate economic measures and political necessity. In the plan itself Krupp stated that "the turn of political events is in line with the wishes which I myself and the board of directors have cherished for a long time." What Krupp meant by this statement is fully shown by the draft text of a speech which he planned to deliver in the University of Berlin in January 1944, though the speech was in fact never delivered. Referring to the years 1919 to 1933, Krupp wrote:

> "It is the one great merit of the entire German war economy that it did not remain idle during those bad years, even

though its activity could not be brought to light, for obvious reasons. Through years of secret work, scientific and basic groundwork was laid in order to be ready again to work for the German armed forces at the appointed hour, without loss of time or experience . . . . Only through the secret activity of German enterprise together with the experience gained meanwhile through the production of peace time goods was it possible after 1933 to fall into step with the new tasks arrived at, restoring Germany's military power."

In October 1933 Germany withdrew from the International Disarmament Conference and the League of Nations. In 1935 the Nazi Government decided to take the first open steps to free itself from its obligations under the Treaty of Versailles. On 10 March 1935 the Defendant Göring announced that Germany was building a military air force. Six days later, on 16 March 1935, a law was passed bearing the signatures, among others, of the Defendants Göring, Hess, Frank, Frick, Schacht, and Von Neurath, instituting compulsory military service and fixing the establishment of the German Army at a peace time strength of 500,000 men. In an endeavor to reassure public opinion in other countries, the Government announced on 21 May 1935 that Germany would, though renouncing the disarmament clauses, still respect the territorial limitations of the Versailles Treaty, and would comply with the Locarno Pacts. Nevertheless, on the very day of this announcement, the secret Reich Defense Law was passed and its publication forbidden by Hitler. In this law, the powers and duties of the Chancellor and other Ministers were defined, should Germany become involved in war. It is clear from this law that by May of 1935 Hitler and his Government had arrived at the stage in the carrying out of their policies when it was necessary for them to have in existence the requisite machinery for the administration and government of Germany in the event of their policy leading to war.

At the same time that this preparation of the German economy for war was being carried out, the German armed forces themselves were preparing for a rebuilding of Germany's armed strength.

The German Navy was particularly active in this regard. The official German Naval historians, Assmann and Gladisch, admit that the Treaty of Versailles had only been in force for a few months before it was violated, particularly in the construction of a new submarine arm.

The publications of Captain Schuessler and Colonel Scherff, both of which were sponsored by the Defendant Raeder, were designed to show the German People the nature of the Navy's effort to rearm in defiance of the Treaty of Versailles.

The full details of these publications have been given in evidence.

On 12 May 1934 the Defendant Raeder issued the Top Secret

armament plan for what was called the "Third Armament Phase". This contained the sentence:

> "All theoretical and practical A-preparations are to be drawn up with a primary view to readiness for a war *without any alert period.*"

One month later, in June 1934, the Defendant Raeder had a conversation with Hitler in which Hitler instructed him to keep secret the construction of U-boats and of warships over the limit of 10,000 tons which was then being undertaken.

And on 2 November 1934, the Defendant Raeder had another conversation with Hitler and the Defendant Göring, in which Hitler said that he considered it vital that the German Navy "should be increased as planned, as no war could be carried on if the Navy was not able to safeguard the ore imports from Scandinavia".

The large orders for building given in 1933 and 1934 are sought to be excused by the Defendant Raeder on the ground that negotiations were in progress for an agreement between Germany and Great Britain permitting Germany to build ships in excess of the provisions of the Treaty of Versailles. This agreement, which was signed in 1935, restricted the German Navy to a tonnage equal to one-third of that of the British, except in respect of U-boats where 45 percent was agreed, subject always to the right to exceed this proportion after first informing the British Government and giving them an opportunity of discussion.

The Anglo-German Treaty followed in 1937, under which both Powers bound themselves to notify full details of their building program at least four months before any action was taken.

It is admitted that these clauses were not adhered to by Germany.

In capital vessels, for example, the displacement details were falsified by 20 percent, whilst in the case of U-boats, the German historians Assmann and Gladisch say:

> "It is probably just in the sphere of submarine construction that Germany adhered the least to the restrictions of the German-British Treaty."

The importance of these breaches of the Treaty is seen when the motive for this rearmament is considered. In the year 1940 the Defendant Raeder himself wrote:

> "The Führer hoped until the last moment to be able to put off the threatening conflict with England until 1944-45. At that time, the Navy would have had available a fleet with a powerful U-boat superiority, and a much more favorable ratio as regards strength in all other types of ships, particularly those designed for warfare on the High Seas."

The Nazi Government as already stated, announced on 21 May 1935 their intention to respect the territorial limitations of the

Treaty of Versailles. On 7 March 1936, in defiance of that Treaty, the demilitarized zone of the Rhineland was entered by German troops. In announcing this action to the German Reichstag, Hitler endeavored to justify the re-entry by references to the recently concluded alliances between France and the Soviet Union, and between Czechoslovakia and the Soviet Union. He also tried to meet the hostile reaction which he no doubt expected to follow this violation of the Treaty by saying:

"We have no territorial claims to make in Europe."

The Common Plan of Conspiracy and Aggressive War

The Tribunal now turns to the consideration of the Crimes against Peace charged in the Indictment. Count One of the Indictment charges the defendants with conspiring or having a common plan to commit crimes against peace. Count Two of the Indictment charges the defendants with committing specific crimes against peace by planning, preparing, initiating, and waging wars of aggression against a number of other States. It will be convenient to consider the question of the existence of a common plan and the question of aggressive war together, and to deal later in this Judgment with the question of the individual responsibility of the defendants.

The charges in the Indictment that the defendants planned and waged aggressive wars are charges of the utmost gravity. War is essentially an evil thing. Its consequences are not confined to the belligerent States alone, but affect the whole world.

To initiate a war of aggression, therefore, is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole.

The first acts of aggression referred to in the Indictment are the seizure of Austria and Czechoslovakia; and the first war of aggression charged in the Indictment is the war against Poland begun on 1 September 1939.

Before examining that charge it is necessary to look more closely at some of the events which preceded these acts of aggression. The war against Poland did not come suddenly out of an otherwise clear sky; the evidence has made it plain that this war of aggression, as well as the seizure of Austria and Czechoslovakia, was premeditated and carefully prepared, and was not undertaken until the moment was thought opportune for it to be carried through as a definite part of the pre-ordained scheme and plan. For the aggressive designs of the Nazi Government were not accidents arising out of the immediate political situation in Europe and the world; they were a deliberate and essential part of Nazi foreign policy.

From the beginning, the National Socialist movement claimed that its object was to unite the German People in the consciousness of their mission and destiny, based on inherent qualities of race, and under the guidance of the Führer.

For its achievement, two things were deemed to be essential: the disruption of the European order as it had existed since the Treaty of Versailles, and the creation of a Greater Germany beyond the frontiers of 1914. This necessarily involved the seizure of foreign territories.

War was seen to be inevitable, or at the very least, highly probable, if these purposes were to be accomplished. The German People, therefore, with all their resources, were to be organized as a great political-military army, schooled to obey without question any policy decreed by the State.

Preparation for Aggression

In *Mein Kampf* Hitler had made this view quite plain. It must be remembered that *Mein Kampf* was no mere private diary in which the secret thoughts of Hitler were set down. Its contents were rather proclaimed from the house-tops. It was used in the schools and Universities and among the Hitler Youth, in the SS and the SA, and among the German People generally, even down to the presentation of an official copy to all newly-married people. By the year 1945 over 6½ million copies had been circulated. The general contents are well known. Over and over again Hitler asserted his belief in the necessity of force as the means of solving international problems, as in the following quotation:

> "The soil on which we now live was not a gift bestowed by Heaven on our forefathers. They had to conquer it by risking their lives. So also in the future, our people will not obtain territory, and therewith the means of existence, as a favor from any other people, but will have to win it by the power of a triumphant sword."

Mein Kampf contains many such passages, and the extolling of force as an instrument of foreign policy is openly proclaimed.

The precise objectives of this policy of force are also set forth in detail. The very first page of the book asserts that "German-Austria must be restored to the great German Motherland," not on economic grounds, but because "people of the same blood should be in the same Reich."

The restoration of the German frontiers of 1914 is declared to be wholly insufficient, and if Germany is to exist at all, it must be as a world power with the necessary territorial magnitude.

Mein Kampf is quite explicit in stating where the increased territory is to be found:

"Therefore we National Socialists have purposely drawn a line through the line of conduct followed by pre-war Germany in foreign policy. We put an end to the perpetual Germanic march towards the South and West of Europe, and turn our eyes towards the lands of the East. We finally put a stop to the colonial and trade policy of the pre-war times, and pass over to the territorial policy of the future.

"But when we speak of new territory in Europe today, we must think principally of Russia and the border states subject to her."

Mein Kampf is not to be regarded as a mere literary exercise, nor as an inflexible policy or plan incapable of modification.

Its importance lies in the unmistakable attitude of aggression revealed throughout its pages.

The Planning of Aggression

Evidence from captured documents has revealed that Hitler held four secret meetings to which the Tribunal proposes to make special reference because of the light they shed upon the question of the common plan and aggressive war.

These meetings took place on 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939.

At these meetings important declarations were made by Hitler as to his purposes, which are quite unmistakable in their terms.

The documents which record what took place at these meetings have been subject to some criticism at the hands of defending Counsel.

Their essential authenticity is not denied, but it is said, for example, that they do not purpose to be verbatim transcripts of the speeches they record, that the document dealing with the meeting on 5 November 1937, was dated five days after the meeting had taken place, and that the two documents dealing with the meeting of 22 August 1939 differ from one another, and are unsigned.

Making the fullest allowance for criticism of this kind, the Tribunal is of opinion that the documents are documents of the highest value, and that their authenticity and substantial truth are established.

They are obviously careful records of the events they describe, and they have been preserved as such in the archives of the German Government, from whose custody they were captured. Such documents could never be dismissed as inventions, nor even as inaccurate or distorted; they plainly record events which actually took place.

Conferences of 23 November 1939 and 5 November 1937

It will perhaps be useful to deal first of all with the meeting of 23 November 1939, when Hitler called his Supreme Commanders

together. A record was made of what was said, by one of those present. At the date of the meeting, Austria and Czechoslovakia had been incorporated into the German Reich, Poland had been conquered by the German Armies, and the war with Great Britain and France was still in its static phase. The moment was opportune for a review of past events. Hitler informed the Commanders that the purpose of the Conference was to give them an idea of the world of his thoughts, and to tell them his decision. He thereupon reviewed his political task since 1919, and referred to the secession of Germany from the League of Nations, the denunciation of the Disarmament Conference, the order for re-armament, the introduction of compulsory armed service, the occupation of the Rhineland, the seizure of Austria, and the action against Czechoslovakia. He stated:

> "One year later, Austria came; this step also was considered doubtful. It brought about a considerable reinforcement of the Reich. The next step was Bohemia, Moravia, and Poland. This step also was not possible to accomplish in one campaign. First of all, the western fortification had to be finished. It was not possible to reach the goal in one effort. It was clear to me from the first moment that I could not be satisfied with the Sudeten German territory. That was only a partial solution. The decision to march into Bohemia was made. Then followed the erection of the Protectorate and with that the basis for the action against Poland was laid, but I wasn't quite clear at that time whether I should start first against the East and then in the West or vice versa .... Basically I did not organize the Armed Forces in order not to strike. The decision to strike was always in me. Earlier or later I wanted to solve the problem. Under pressure it was decided that the East was to be attacked first."

This address, reviewing past events and re-affirming the aggressive intentions present from the beginning, puts beyond any question of doubt the character of the actions against Austria and Czechoslovakia, and the war against Poland.

For they had all been accomplished according to plan; and the nature of that plan must now be examined in a little more detail.

At the meeting of 23 November 1939 Hitler was looking back to things accomplished; at the earlier meetings now to be considered, he was looking forward, and revealing his plans to his confederates. The comparison is instructive.

The meeting held at the Reich Chancellery in Berlin on 5 November 1937 was attended by Lieutenant Colonel Hossbach, Hitler's personal adjutant, who compiled a long note of the proceedings, which he dated 10 November 1937 and signed.

The persons present were Hitler, and the Defendants Göring, Von Neurath, and Raeder, in their capacities as Commander-in-Chief of the Luftwaffe, Reich Foreign Minister, and Commander-in-Chief of the Navy respectively, General Von Blomberg, Minister of War, and General Von Fritsch, the Commander-in-Chief of the Army.

Hitler began by saying that the subject of the conference was of such high importance that in other States it would have taken place before the Cabinet. He went on to say that the subject matter of his speech was the result of his detailed deliberations, and of his experiences during his four and a half years of Government. He requested that the statements he was about to make should be looked upon in the case of his death as his last will and testament. Hitler's main theme was the problem of living space, and he discussed various possible solutions, only to set them aside. He then said that the seizure of living space on the continent of Europe was therefore necessary, expressing himself in these words:

> "It is not a case of conquering people but of conquering agriculturally useful space. It would also be more to the purpose to seek raw material producing territory in Europe directly adjoining the Reich and not overseas, and this solution would have to be brought into effect for one or two generations . . . . The history of all times — Roman Empire, British Empire — has proved that every space expansion can only be effected by breaking resistance and taking risks. Even setbacks are unavoidable: neither formerly nor today has space been found without an owner; the attacker always comes up against the proprietor."

He concluded with this observation:

> "The question for Germany is where the greatest possible conquest could be made at the lowest cost."

Nothing could indicate more plainly the aggressive intentions of Hitler, and the events which soon followed showed the reality of his purpose. It is impossible to accept the contention that Hitler did not actually mean war; for after pointing out that Germany might expect the opposition of England and France, and analyzing the strength and the weakness of those powers in particular situations, he continued:

> "The German question can be solved only by way of force, and this is never without risk . . . . If we place the decision to apply force with risk at the head of the following expositions, then we are left to reply to the questions 'when' and 'how'. In this regard we have to decide upon three different cases."

The first of these three cases set forth a hypothetical international situation, in which he would take action not later than 1943 to 1945, saying:

> "If the Führer is still living then it will be his irrevocable decision to solve the German space problem not later than 1943 to 1945. The necessity for action before 1943 to 1945 will come under consideration in Cases 2 and 3."

The second and third cases to which Hitler referred show the plain intention to seize Austria and Czechoslovakia, and in this connection Hitler said:

> "For the improvement of our military-political position, it must be our first aim in every case of entanglement by war to conquer Czechoslovakia and Austria simultaneously in order to remove any threat from the flanks in case of a possible advance westwards."

He further added:

> "The annexation of the two States to Germany militarily and politically would constitute a considerable relief, owing to shorter and better frontiers, the freeing of fighting personnel for other purposes, and the possibility of reconstituting new armies up to a strength of about twelve divisions."

This decision to seize Austria and Czechoslovakia was discussed in some detail; the action was to be taken as soon as a favorable opportunity presented itself.

The military strength which Germany had been building up since 1933 was now to be directed at the two specific countries, Austria and Czechoslovakia.

The Defendant Göring testified that he did not believe at that time that Hitler actually meant to attack Austria and Czechoslovakia, and that the purpose of the conference was only to put pressure on Von Fritsch to speed up the re-armament of the Army.

The Defendant Raeder testified that neither he, nor Von Fritsch, nor Von Blomberg, believed that Hitler actually meant war, a conviction which the Defendant Raeder claims that he held up to 22 August 1939. The basis of this conviction was his hope that Hitler would obtain a "political solution" of Germany's problems. But all that this means, when examined, is the belief that Germany's position would be so good, and Germany's armed might so overwhelming that the territory desired could be obtained without fighting for it. It must be remembered too that Hitler's declared intention with regard to Austria was actually carried out within a little over four months from the date of the meeting, and within less than a year the first portion of Czechoslovakia was absorbed, and Bohemia and Moravia a few months later. If any doubts

had existed in the minds of any of his hearers in November 1937, after March 1939 there could no longer be any question that Hitler was in deadly earnest in his decision to resort to war. The Tribunal is satisfied that Lieutenant Colonel Hossbach's account of the meeting is substantially correct, and that those present knew that Austria and Czechoslovakia would be annexed by Germany at the first possible opportunity.

The Seizure of Austria

The invasion of Austria was a pre-meditated aggressive step in furthering the plan to wage aggressive wars against other countries. As a result Germany's flank was protected, that of Czechoslovakia being greatly weakened. The first step had been taken in the seizure of "Lebensraum"; many new divisions of trained fighting men had been acquired; and with the seizure of foreign exchange reserves, the re-armament program had been greatly strengthened.

On 21 May 1935 Hitler announced in the Reichstag that Germany did not intend either to attack Austria or to interfere in her internal affairs. On 1 May 1936 he publicly coupled Czechoslovakia with Austria in his avowal of peaceful intentions; and so late as 11 July 1936 he recognized by treaty the full sovereignty of Austria.

Austria was in fact seized by Germany in the month of March 1938. For a number of years before that date, the National Socialists in Germany had been cooperating with the National Socialists of Austria with the ultimate object of incorporating Austria into the German Reich. The Putsch of 25 July 1934, which resulted in the assassination of Chancellor Dollfuss, had the seizure of Austria as its object; but the Putsch failed, with the consequence that the National Socialist Party was outlawed in Austria. On 11 July 1936 an agreement was entered into between the two countries, Article 1 of which stated: "The German Government recognizes the full sovereignty of the Federated State of Austria in the spirit of the pronouncements of the German Führer and Chancellor of 21 May 1935."

Article 2 declared: "Each of the two Governments regards the inner political order (including the question of Austrian National Socialism) obtaining in the other country as an internal affair of the other country, upon which it will exercise neither direct nor indirect influence."

The National Socialist movement in Austria however continued its illegal activities under cover of secrecy; and the National Socialists of Germany gave the Party active support. The resulting "incidents" were seized upon by the German National Socialists as an excuse for interfering in Austrian affairs. After the conference of 5 November 1937, these "incidents" rapidly multiplied. The

relationship between the two countries steadily worsened, and finally the Austrian Chancellor Schuschnigg was persuaded by the Defendant Von Papen and others to seek a conference with Hitler, which took place at Berchtesgaden on 12 February 1938. The Defendant Keitel was present at the conference, and Dr. Schuschnigg was threatened by Hitler with an immediate invasion of Austria. Schuschnigg finally agreed to grant a political amnesty to various Nazis convicted of crime, and to appoint the Nazi Seyss-Inquart as Minister of the Interior and Security with control of the Police. On 9 March 1938, in an attempt to preserve the independence of his country, Dr. Schuschnigg decided to hold a plebiscite on the question of Austrian independence, which was fixed for 13 March 1938. Hitler, two days later, sent an ultimatum to Schuschnigg that the plebiscite must be withdrawn. In the afternoon and evening of 11 March 1938 the Defendant Göring made a series of demands upon the Austrian Government, each backed up by the threat of invasion. After Schuschnigg had agreed to the cancellation of the plebiscite, another demand was put forward that Schuschnigg must resign, and that the Defendant Seyss-Inquart should be appointed Chancellor. In consequence, Schuschnigg resigned, and President Miklas, after at first refusing to appoint Seyss-Inquart as Chancellor, gave way and appointed him.

Meanwhile Hitler had given the final order for the German troops to cross the border at dawn on 12 March and instructed Seyss-Inquart to use formations of Austrian National Socialists to depose Miklas and to seize control of the Austrian Government. After the order to march had been given to the German troops, Göring telephoned the German Embassy in Vienna and dictated a telegram which he wished Seyss-Inquart to send to Hitler to justify the military action which had already been ordered.

It was:

> "The provisional Austrian Government, which, after the dismissal of the Schuschnigg Government, considers its task to establish peace and order in Austria, sends to the German Government the urgent request to support it in its task and to help it to prevent bloodshed. For this purpose it asks the German Government to send German troops as soon as possible."

Keppler, an official of the German Embassy, replied: "Well, SA and SS are marching through the streets, but everything is quiet."

After some further discussion, Göring stated: "Please show him (Seyss-Inquart) the text of the telegram and do tell him that we are asking him — well, he doesn't even have to send the telegram. All he needs to do is to say 'Agreed'."

Seyss-Inquart never sent the telegram; he never even telegraphed "Agreed".

It appears that as soon as he was appointed Chancellor, some time after 10 p.m., he called Keppler and told him to call up Hitler and transmit his protests against the occupation. This action outraged the Defendant Göring, because "it would disturb the rest of the Führer, who wanted to go to Austria the next day". At 11:15 p.m. an official in the Ministry of Propaganda in Berlin telephoned the German Embassy in Vienna and was told by Keppler: "Tell the General Field Marshal that Seyss-Inquart agrees".

At daybreak on 12 March 1938 German troops marched into Austria, and met with no resistance. It was announced in the German press that Seyss-Inquart had been appointed the successor to Schuschnigg, and the telegram which Göring had suggested, but which was never sent, was quoted to show that Seyss-Inquart had requested the presence of German troops to prevent disorder. On 13 March 1938 a law was passed for the reunion of Austria in the German Reich. Seyss-Inquart demanded that President Miklas should sign this law, but he refused to do so, and resigned his office. He was succeeded by Seyss-Inquart, who signed the law in the name of Austria. This law was then adopted as a law of the Reich by a Reich Cabinet decree issued the same day, and signed by Hitler and the Defendants Göring, Frick, Von Ribbentrop, and Hess.

It was contended before the Tribunal that the annexation of Austria was justified by the strong desire expressed in many quarters for the union of Austria and Germany; that there were many matters in common between the two peoples that made this union desirable; and that in the result the object was achieved without bloodshed.

These matters, even if true, are really immaterial, for the facts plainly prove that the methods employed to achieve the object were those of an aggressor. The ultimate factor was the armed might of Germany ready to be used if any resistance was encountered. Moreover, none of these considerations appear from the Hossbach account of the meetings of 5 November 1937 to have been the motives which actuated Hitler; on the contrary, all the emphasis is there laid on the advantage to be gained by Germany in her military strength by the annexation of Austria.

The Seizure of Czechoslovakia

The conference of 5 November 1937 made it quite plain that the seizure of Czechoslovakia by Germany had been definitely decided upon. The only question remaining was the selection of the suitable moment to do it. On 4 March 1938 the Defendant Von Ribbentrop

wrote to the Defendant Keitel with regard to a suggestion made to Von Ribbentrop by the Hungarian Ambassador in Berlin, that possible war aims against Czechoslovakia should be discussed between the German and Hungarian Armies. In the course of this letter Von Ribbentrop said:

> "I have many doubts about such negotiations. In case we should discuss with Hungary possible war aims against Czechoslovakia, the danger exists that other parties as well would be informed about this."

On 11 March 1938 Göring made two separate statements to M. Mastny, the Czechoslovak Minister in Berlin, assuring him that the developments then taking place in Austria would in no way have any detrimental influence on the relations between the German Reich and Czechoslovakia, and emphasized the continued earnest endeavor on the part of the Germans to improve those mutual relations. On 12 March Göring asked M. Mastny to call on him, and repeated these assurances.

This design to keep Czechoslovakia quiet whilst Austria was absorbed was a typical maneuver on the part of the Defendant Göring, which he was to repeat later in the case of Poland, when he made the most strenuous efforts to isolate Poland in the impending struggle. On the same day, 12 March, the Defendant Von Neurath spoke with M. Mastny, and assured him on behalf of Hitler that Germany still considered herself bound by the German-Czechoslovak Arbitration Convention concluded at Locarno in October 1925.

The evidence shows that after the occupation of Austria by the German Army on 12 March and the annexation of Austria on 13 March, Conrad Henlein, who was the leader of the Sudeten German Party in Czechoslovakia, saw Hitler in Berlin on 28 March. On the following day, at a conference in Berlin, when Von Ribbentrop was present with Henlein, the general situation was discussed, and later the Defendant Jodl recorded in his diary:

> "After the annexation of Austria the Führer mentions that there is no hurry to solve the Czech question, because Austria has to be digested first. Nevertheless, preparations for Case Grün (that is, the plan against Czechoslovakia) will have to be carried out energetically; they will have to be newly prepared on the basis of the changed strategic position because of the annexation of Austria."

On 21 April 1938 a discussion took place between Hitler and the Defendant Keitel with regard to "Case Grün", showing quite clearly that the preparations for the attack on Czechoslovakia were being fully considered. On 28 May 1938 Hitler ordered that preparations should be made for military action against Czechoslovakia by the

2nd October, and from then onwards the plan to invade Czechoslovakia was constantly under review. On 30 May 1938 a directive signed by Hitler declared his "unalterable decision to smash Czechoslovakia by military action in the near future".

In June 1938 as appears from a captured document taken from the files of the SD in Berlin, an elaborate plan for the employment of the SD in Czechoslovakia had been proposed. This plan provided that "the SD follow, if possible, immediately after the leading troops, and take upon themselves the duties similar to their tasks in Germany . . . ."

Gestapo officials were assigned to co-operate with the SD in certain operations. Special agents were to be trained beforehand to prevent sabotage, and these agents were to be notified "before the attack in due time . . . in order to give them the possibility to hide themselves, avoid arrest and deportation . . . At the beginning, guerrilla or partisan warfare is to be expected, therefore weapons are necessary . . . ."

Files of information were to be compiled with notations as follows: "To arrest." "To liquidate." "To confiscate." "To deprive of passport." etc.

The plan provided for the temporary division of the country into larger and smaller territorial units, and considered various "suggestions", as they were termed, for the incorporation into the German Reich of the inhabitants and districts of Czechoslovakia. The final "suggestion" included the whole country, together with Slovakia and Carpathian Russia, with a population of nearly 15 millions.

The plan was modified in some respects in September after the Munich Conference, but the fact the plan existed in such exact detail and was couched in such war-like language indicated a calculated design to resort to force.

On 31 August 1938 Hitler approved a memorandum by Jodl dated 24 August 1938, concerning the timing of the order for the invasion of Czechoslovakia and the question of defense measures. This memorandum contained the following:

> "Operation Grün will be set in motion by means of an 'incident' in Czechoslovakia, which will give Germany provocation for military intervention. The fixing of the *exact time* for this incident is of the utmost importance."

These facts demonstrate that the occupation of Czechoslovakia had been planned in detail long before the Munich Conference.

In the month of September 1938 the conferences and talks with military leaders continued. In view of the extraordinarily critical situation which had arisen, the British Prime Minister, Mr. Cham-

berlain, flew to Munich and then went to Berchtesgaden to see Hitler. On 22 September Mr. Chamberlain met Hitler for further discussions at Bad Godesberg. On 26 September 1938 Hitler said in a speech in Berlin, with reference to his conversation:

> "I assured him, moreover, and I repeat it here, that when this problem is solved there will be no more territorial problems for Germany in Europe; and I further assured him that from the moment when Czechoslovakia solves its other problems, that is to say, when the Czechs have come to an arrangement with their other minorities, peacefully and without oppression, I will be no longer interested in the Czech State, and that as far as I am concerned I will guarantee it. We don't want any Czechs."

On 29 September 1938, after a conference between Hitler and Mussolini and the British and French Prime Ministers in Munich, the Munich Pact was signed, by which Czechoslovakia was required to acquiesce in the cession of the Sudetenland to Germany. The "piece of paper" which the British Prime Minister brought back to London, signed by himself and Hitler, expressed the hope that for the future Britain and Germany might live without war. That Hitler never intended to adhere to the Munich Agreement is shown by the fact that a little later he asked the Defendant Keitel for information with regard to the military force which in his opinion would be required to break all Czech resistance in Bohemia and Moravia. Keitel gave his reply on 11 October 1938. On 21 October 1938 a directive was issued by Hitler, and countersigned by the Defendant Keitel, to the Armed Forces on their future tasks, which stated:

> "Liquidation of the remainder of Czechoslovakia. It must be possible to smash at any time the remainder of Czechoslovakia if her policy should become hostile towards Germany."

On 14 March 1939 the Czech President Hacha and his Foreign Minister Chvalkovsky came to Berlin at the suggestion of Hitler, and attended a meeting at which the Defendants Von Ribbentrop, Göring, and Keitel were present, with others. The proposal was made to Hacha that if he would sign an agreement consenting to the incorporation of the Czech people in the German Reich at once, Bohemia and Moravia would be saved from destruction. He was informed that German troops had already received orders to march and that any resistance would be broken with physical force. The Defendant Göring added the threat that he would destroy Prague completely from the air. Faced by this dreadful alternative, Hacha and his Foreign Minister put their signatures to the necessary agreement at 4:30 in the morning, and Hitler and Ribbentrop signed on behalf of Germany.

On 15 March German troops occupied Bohemia and Moravia, and on 16 March the German decree was issued incorporating Bohemia and Moravia into the Reich as a protectorate, and this decree was signed by the Defendants Von Ribbentrop and Frick.

The Aggression against Poland

By March 1939 the plan to annex Austria and Czechoslovakia, which had been discussed by Hitler at the meeting of 5 November 1937, had been accomplished. The time had now come for the German leaders to consider further acts of aggression, made more possible of attainment because of that accomplishment.

On 23 May 1939 a meeting was held in Hitler's study in the new Reich Chancellery in Berlin. Hitler announced his decision to attack Poland and gave his reasons, and discussed the effect the decision might have on other countries. In point of time, this was the second of the important meetings to which reference has already been made, and in order to appreciate the full significance of what was said and done, it is necessary to state shortly some of the main events in the history of German-Polish relations.

As long ago as the year 1925 an Arbitration Treaty between Germany and Poland had been made at Locarno, providing for the settlement of all disputes between the two countries. On 26 January 1934, a German-Polish declaration of non-aggression was made, signed on behalf of the German Government by the Defendant Von Neurath. On 30 January 1934, and again on 30 January 1937 Hitler made speeches in the Reichstag in which he expressed his view that Poland and Germany could work together in harmony and peace. On 20 February 1938 Hitler made a third speech in the Reichstag in the course of which he said with regard to Poland:

> "And so the way to a friendly understanding has been successfully paved, an understanding which, beginning with Danzig, has today, in spite of the attempts of certain mischief makers, succeeded in finally taking the poison out of the relations between Germany and Poland and transforming them into a sincere, friendly cooperation . . . . Relying on her friendships, Germany will not leave a stone unturned to save that ideal which provides the foundation for the task which is ahead of us — peace."

On 26 September 1938, in the middle of the crisis over the Sudetenland, Hitler made the speech in Berlin which has already been quoted, and announced that he had informed the British Prime Minister that when the Czechoslovakian problem was solved there would be no more territorial problems for Germany in Europe. Nevertheless, on 24 November of the same year, an OKW directive

was issued to the German Armed Forces to make preparations for an attack upon Danzig; it stated:

"The Führer has ordered:

(1) . . . Preparations are also to be made to enable the Free State of Danzig to be occupied by German troops by surprise."

In spite of having ordered military preparations for the occupation of Danzig, Hitler on 30 January 1939 said in a speech in the Reichstag: "During the troubled months of the past year, the friendship between Germany and Poland has been one of the reassuring factors in the political life of Europe."

Five days previously, on 25 January 1939, Von Ribbentrop said in the course of a speech in Warsaw: "Thus Poland and Germany can look forward to the future with full confidence in the solid basis of their mutual relations."

Following on the occupation of Bohemia and Moravia by Germany on 15 March 1939, which was a flagrant breach of the Munich Agreement, Great Britain gave an assurance to Poland on 31 March 1939 that in the event of any action which clearly threatened Polish independence, and which the Polish Government accordingly considered it vital to resist with their National Forces, Great Britain would feel itself bound at once to lend Poland all the support in its power. The French Government took the same stand. It is interesting to note in this connection, that one of the arguments frequently presented by the Defense in the present case is that the Defendants were induced to think that their conduct was not in breach of international law by the acquiescence of other Powers. The declarations of Great Britain and France showed, at least, that this view could be held no longer.

On 3 April 1939 a revised OKW directive was issued to the Armed Forces, which after referring to the question of Danzig made reference to Fall Weiss (the military code name for the German invasion of Poland) and stated:

"The Führer has added the following directions to Fall Weiss. (1) Preparations must be made in such a way that the operation can be carried out at any time from 1 September 1939 onwards. (2) The High Command of the Armed Forces has been directed to draw up a precise timetable for Fall Weiss and to arrange by conferences the synchronized timings between the three branches of the Armed Forces."

On 11 April 1939 a further directive was signed by Hitler and issued to the Armed Forces, and in one of the annexes to that document the words occur:

"Quarrels with Poland should be avoided. Should Poland however adopt a threatening attitude towards Germany, 'a final settlement' will be necessary, notwithstanding the pact with

Poland. The aim is then to destroy Polish military strength, and to create in the East a situation which satisfies the requirements of defense. The Free State of Danzig will be incorporated into Germany at the outbreak of the conflict at the latest. Policy aims at limiting the war to Poland, and this is considered possible in view of the internal crisis in France, and British restraint as a result of this."

In spite of the contents of those two directives, Hitler made a speech in the Reichstag on 28 April 1939 in which, after describing the Polish Government's alleged rejection of an offer he had made with regard to Danzig and the Polish Corridor, he stated:

"I have regretted greatly this incomprehensible attitude of the Polish Government, but that alone is not the decisive fact; the worst is that now Poland like Czechoslovakia a year ago believes, under the pressure of a lying international campaign, that it must call up its troops, although Germany on her part has not called up a single man, and had not thought of proceeding in any way against Poland . . . . The intention to attack on the part of Germany which was merely invented by the international press . . ."

It was four weeks after making this speech that Hitler, on 23 May 1939, held the important military conference to which reference has already been made. Among the persons present were the Defendants Göring, Raeder, and Keitel. The adjutant on duty that day was Lieutenant Colonel Schmundt, and he made a record of what happened, certifying it with his signature as a correct record.

The purpose of the meeting was to enable Hitler to inform the heads of the Armed Forces and their staffs of his views on the political situation and his future aims. After analyzing the political situation and reviewing the course of events since 1933, Hitler announced his decision to attack Poland. He admitted that the quarrel with Poland over Danzig was not the reason for this attack, but the necessity for Germany to enlarge her living space and secure her food supplies. He said:

"The solution of the problem demands courage. The principle by which one evades solving the problem by adapting oneself to circumstances is inadmissible. Circumstances must rather be adapted to needs. This is impossible without invasion of foreign States or attacks upon foreign property."

Later in his address he added:

"There is therefore no question of sparing Poland, and we are left with the decision to attack Poland at the first suitable opportunity. We cannot expect a repetition of the Czech affair. There will be war. Our task is to isolate Poland. The

success of the isolation will be decisive . . . . The isolation of Poland is a matter of skillful politics."

Lieutenant Colonel Schmundt's record of the meeting reveals that Hitler fully realized the possibility of Great Britain and France coming to Poland's assistance. If, therefore, the isolation of Poland could not be achieved, Hitler was of the opinion that Germany should attack Great Britain and France first, or at any rate should concentrate primarily on the war in the West, in order to defeat Great Britain and France quickly, or at least to destroy their effectiveness. Nevertheless, Hitler stressed that war with England and France would be a life and death struggle, which might last a long time, and that preparations must be made accordingly.

During the weeks which followed this conference, other meetings were held and directives were issued in preparation for the war. The Defendant Von Ribbentrop was sent to Moscow to negotiate a non-aggression pact with the Soviet Union.

On 22 August 1939 there took place the important meeting of that day, to which reference has already been made. The Prosecution have put in evidence two unsigned captured documents which appear to be records made of this meeting by persons who were present. The first document is headed: "The Führer's Speech to the Commanders-in-Chief on 22 August 1939." The purpose of the speech was to announce the decision to make war on Poland at once, and Hitler began by saying:

"It was clear to me that a conflict with Poland had to come sooner or later. I had already made this decision in the spring, but I thought that I would first turn against the West in a few years, and only afterwards against the East . . . I wanted to establish an acceptable relationship with Poland in order to fight first against the West. But this plan, which was agreeable to me, could not be executed since essential points have changed. It became clear to me that Poland would attack us in case of a conflict with the West."

Hitler then went on to explain why he had decided that the most favorable moment had arrived for starting the war:

"Now", said Hitler, "Poland is in the position in which I wanted her . . . . I am only afraid that at the last moment some *Schweinehund* will make a proposal for mediation . . . . A beginning has been made for the destruction of England's hegemony."

This document closely resembles one of the documents put in evidence on behalf of the Defendant Raeder. This latter document consists of a summary of the same speech, compiled on the day it was made, by one Admiral Boehm, from notes he had taken during

the meeting. In substance it says that the moment had arrived to settle the dispute with Poland by military invasion, that although a conflict between Germany and the West was unavoidable in the long run, the likelihood of Great Britain and France coming to Poland's assistance was not great, and that even if a war in the West should come about, the first aim should be the crushing of the Polish military strength. It also contains a statement by Hitler that an appropriate propaganda reason for invading Poland would be given, the truth or falsehood of which was unimportant, since "the Right lies in Victory".

The second unsigned document put in evidence by the Prosecution is headed: "Second Speech by the Führer on 22 August 1939", and is in the form of notes of the main points made by Hitler. Some of these are as follows:

> "Everybody shall have to make a point of it that we were determined from the beginning to fight the Western Powers. Struggle for life or death . . . destruction of Poland in the foreground. The aim is elimination of living forces, not the arrival at a certain line. Even if war should break out in the West, the destruction of Poland shall be the primary objective. I shall give a propagandist cause for starting the war — never mind whether it be plausible or not. The victor shall not be asked later on whether we told the truth or not. In starting and making a war, not the Right is what matters, but Victory . . . . The start will be ordered probably by Saturday morning." (That is to say, 26 August.)

In spite of it being described as a second speech, there are sufficient points of similarity with the two previously mentioned documents to make it appear very probable that this is an account of the same speech, not as detailed as the other two, but in substance the same.

These three documents establish that the final decision as to the date of Poland's destruction, which had been agreed upon and planned earlier in the year, was reached by Hitler shortly before 22 August 1939. They also show that although he hoped to be able to avoid having to fight Great Britain and France as well, he fully realized there was a risk of this happening, but it was a risk which he was determined to take.

The events of the last days of August confirm this determination. On 22 August 1939, the same day as the speech just referred to, the British Prime Minister wrote a letter to Hitler, in which he said: "Having thus made our position perfectly clear, I wish to repeat to you my conviction that war between our two peoples would be the greatest calamity that could occur."

On 23 August Hitler replied:

"The question of the treatment of European problems on a peaceful basis is not a decision which rests with Germany, but primarily on those who since the crime committed by the Versailles *Diktat* have stubbornly and consistently opposed any peaceful revision. Only after a change of spirit on the part of the responsible Powers can there be any real change in the relationship between England and Germany."

There followed a number of appeals to Hitler to refrain from forcing the Polish issue to the point of war. These were from President Roosevelt on 24 and 25 August; from his Holiness the Pope on 24 and 31 August; and from M. Daladier, the Prime Minister of France, on 26 August. All these appeals fell on deaf ears.

On 25 August, Great Britain signed a pact of mutual assistance with Poland, which reinforced the undertaking she had given to Poland earlier in the year. This, coupled with the news of Mussolini's unwillingness to enter the war on Germany's side, made Hitler hesitate for a moment. The invasion of Poland, which was timed to start on 26 August, was postponed until a further attempt had been made to persuade Great Britain not to intervene. Hitler offered to enter into a comprehensive agreement with Great Britain, once the Polish question had been settled. In reply to this, Great Britain made a counter-suggestion for the settlement of the Polish dispute by negotiation. On 29 August Hitler informed the British Ambassador that the German Government, though skeptical as to the result, would be prepared to enter into direct negotiations with a Polish emissary, provided he arrived in Berlin with plenipotentiary powers by midnight for the following day, 30 August. The Polish Government were informed of this, but with the example of Schuschnigg and Hacha before them, they decided not to send such an emissary. At midnight on 30 August the Defendant Von Ribbentrop read to the British Ambassador at top speed a document containing the first precise formulation of the German demands against Poland. He refused, however, to give the Ambassador a copy of this, and stated that in any case it was too late now, since no Polish plenipotentiary had arrived.

In the opinion of the Tribunal, the manner in which these negotiations were conducted by Hitler and Von Ribbentrop showed that they were not entered into in good faith or with any desire to maintain peace, but solely in the attempt to prevent Great Britain and France from honoring their obligations to Poland.

Parallel with these negotiations were the unsuccessful attempts made by Göring to effect the isolation of Poland by persuading Great Britain not to stand by her pledged word, through the services of one Birger Dahlerus, a Swede. Dahlerus, who was called as a witness by Göring, had a considerable knowledge of England and things

English, and in July 1939 was anxious to bring about a better understanding between England and Germany, in the hope of preventing a war between the two countries. He got into contact with Göring as well as with official circles in London, and during the latter part of August, Göring used him as an unofficial intermediary to try and deter the British Government from their opposition to Germany's intentions towards Poland. Dahlerus, of course, had no knowledge at the time of the decision which Hitler had secretly announced on 22 August, nor of the German military directives for the attack on Poland which were already in existence. As he admitted in his evidence, it was not until 26 September, after the conquest of Poland was virtually complete, that he first realized that Göring's aim all along had been to get Great Britain's consent to Germany's seizure of Poland.

After all attempts to persuade Germany to agree to a settlement of her dispute with Poland on a reasonable basis had failed, Hitler, on 31 August, issued his final directive, in which he announced that the attack on Poland would start in the early morning of 1 September, and gave instructions as to what action would be taken if Great Britain and France should enter the war in defense of Poland.

In the opinion of the Tribunal, the events of the days immediately preceding 1 September 1939 demonstrate the determination of Hitler and his associates to carry out the declared intention of invading Poland at all costs, despite appeals from every quarter. With the ever increasing evidence before him that this intention would lead to war with Great Britain and France as well, Hitler was resolved not to depart from the course he had set for himself. The Tribunal is fully satisfied by the evidence that the war initiated by Germany against Poland on 1 September 1939 was most plainly an aggressive war, which was to develop in due course into a war which embraced almost the whole world, and resulted in the commission of countless crimes, both against the laws and customs of war, and against humanity

The Invasion of Denmark and Norway

The aggressive war against Poland was but the beginning. The aggression of Nazi Germany quickly spread from country to country. In point of time the first two countries to suffer were Denmark and Norway.

On 31 May 1939 a Treaty of Non-Agression was made between Germany and Denmark, and signed by the Defendant Von Ribbentrop. It was there solemnly stated that the parties to the Treaty were "firmly resolved to maintain peace between Denmark and Germany under all circumstances." Nevertheless, Germany invaded Denmark on 9 April 1940.

On 2 September 1939, after the outbreak of war with Poland, Germany sent a solemn assurance to Norway in these terms:

> "The German Reich Government is determined in view of the friendly relations which exist between Norway and Germany under no circumstance to prejudice the inviolability and integrity of Norway, and to respect the territory of the Norwegian State. In making this declaration the Reich Government naturally expects, on its side, that Norway will observe an unimpeachable neutrality towards the Reich and will not tolerate any breaches of Norwegian neutrality by any third party which might occur. Should the attitude of the Royal Norwegian Government differ from this so that any such breach of neutrality by a third party occurs, the Reich Government would then obviously be compelled to safeguard the interests of the Reich in such a way as the resulting situation might dictate."

On 9 April 1940, in pursuance of her plan of campaign, Norway was invaded by Germany.

The idea of attacking Norway originated, it appears, with the Defendants Raeder and Rosenberg. On 3 October 1939 Raeder prepared a memorandum on the subject of "gaining bases in Norway", and amongst the questions discussed was the question: "Can bases be gained by military force against Norway's will, if it is impossible to carry this out without fighting?" Despite this fact, three days later, further assurances were given to Norway by Germany, which stated: "Germany has never had any conflicts of interest or even points of controversy with the Northern States and neither has she any today."

Three days later again, the Defendant Dönitz prepared a memorandum on the same subject of bases in Norway, and suggested the establishment of a base in Trondheim with an alternative of supplying fuel in Narvik. At the same time the Defendant Raeder was in correspondence with Admiral Karls, who pointed out to him the importance of an occupation of the Norwegian coast by Germany. On 10 October Raeder reported to Hitler the disadvantages to Germany which an occupation by the British would have. In the months of October and November Raeder continued to work on the possible occupation of Norway, in conjunction with the "Rosenberg Organization." The "Rosenberg Organization" was the Foreign Affairs Bureau of the NSDAP, and Rosenberg as Reichsleiter was in charge of it. Early in December, Quisling, the notorious Norwegian traitor, visited Berlin and was seen by the Defendants Rosenberg and Raeder. He put forward a plan for a *coup d'état* in Norway. On 12 December the Defendant Raeder and the naval staff, together with the Defendants Keitel and Jodl, had a conference with Hitler,

when Raeder reported on his interview with Quisling, and set out Quisling's views. On 16 December Hitler himself interviewed Quisling on all these matters. In the report of the activities of the Foreign Affairs Bureau of the NSDAP for the years 1933-43, under the heading of "Political Preparations for the Military Occupation of Norway", it is stated that at the interview with Quisling Hitler said that he would prefer a neutral attitude on the part of Norway as well as the whole of Scandinavia, as he did not desire to extend the theater of war, or to draw other nations into the conflict. If the enemy attempted to extend the war he would be compelled to guard himself against that undertaking. He promised Quisling financial support, and assigned to a special military staff the examination of the military questions involved.

On 27 January 1940 a memorandum was prepared by the Defendant Keitel regarding the plans for the invasion of Norway. On 28 February 1940 the Defendant Jodl entered in his diary:. "I proposed first to the Chief of OKW and then to the Führer that Case Yellow (that is the operation against the Netherlands) and Weser Exercise (that is the operation against Norway and Denmark) must be prepared in such a way that they will be independent of one another as regards both time and forces employed."

On 1 March Hitler issued a directive regarding the Weser Exercise which contained the words:

> "The development of the situation in Scandinavia requires the making of all preparations for the occupation of Denmark and Norway by a part of the German Armed Forces. This operation should prevent British encroachment on Scandinavia and the Baltic; further, it should guarantee our ore base in Sweden and give our Navy and Air Force a wider start line against Britain . . . . The crossing of the Danish border and the landings in Norway must take place simultaneously . . . . It is most important that the Scandinavian States as well as the Western opponents should be taken by surprise by our measures."

On 24 March the naval operation orders for the Weser Exercise were issued, and on 30 March the Defendant Dönitz as Commander-in-Chief of U-boats issued his operational order for the occupation of Denmark and Norway. On 9 April 1940 the German forces invaded Norway and Denmark.

From this narrative it is clear that as early as October 1939 the question of invading Norway was under consideration. The defense that has been made here is that Germany was compelled to attack Norway to forestall an Allied invasion, and her action was therefore preventive.

It must be remembered that preventive action in foreign territory is justified only in case of "an instant and overwhelming necessity for self-defense, leaving no choice of means, and no moment of deliberation" (The Caroline Case, Moore's *Digest of International Law*, II, 412). How widely the view was held in influential German circles that the Allies intended to occupy Norway cannot be determined with exactitude. Quisling asserted that the Allies would intervene in Norway with the tacit consent of the Norwegian Government. The German Legation at Oslo disagreed with this view, although the Naval Attaché at that Legation shared it.

The War Diary of the German Naval Operations Staff for 13 January 1940 stated that the Chief of the Naval Operations Staff thought that the most favorable solution would be the maintenance of the neutrality of Norway, but he harbored the firm conviction that England intended to occupy Norway in the near future relying on the tacit agreement of the Norwegian Government.

The directive of Hitler issued on 1 March 1940 for the attack on Denmark and Norway stated that the operation "should prevent British encroachment on Scandinavia and the Baltic."

It is, however, to be remembered that the Defendant Raeder's memorandum of 3 October 1939 makes no reference to forestalling the Allies, but is based upon "the aim of improving our strategical and operational position."

The memorandum itself is headed "Gaining of Bases in Norway". The same observation applies *mutatis mutandis* to the memorandum of the Defendant Dönitz of 9 October 1939.

Furthermore, on 13 March the Defendant Jodl recorded in his diary:

> "Führer does not give order yet for 'W' (Weser Exercise). He is still looking for an excuse." (Justification?)

On 14 March 1940 he again wrote: "Führer has not yet decided what reason to give for 'Weser Exercise' ". On 21 March 1940 he recorded the misgivings of Task Force XXI about the long interval between taking up readiness positions and the close of the diplomatic negotiations, and added:

> "Führer rejects any earlier negotiations, as otherwise calls for help go out to England and America. If resistance is put up it must be ruthlessly broken."

On 2 April he records that all the preparations are completed; on 4 April the Naval Operational Order was issued; and on 9 April, the invasion was begun.

From all this it is clear that when the plans for an attack on Norway were being made, they were not made for the purpose of forestalling an imminent Allied landing, but, at the most, that they might prevent an Allied occupation at some future date.

When the final orders for the German invasion of Norway were given, the diary of the Naval Operations Staff for 23 March 1940 records: "A mass encroachment by the English into Norwegian territorial waters ... is not to be expected at the present time."

And Admiral Assmann's entry for 26 March says: "British landing in Norway not considered serious."

Documents which were subsequently captured by the Germans are relied on to show that the Allied plan to occupy harbors and airports in Western Norway was a definite plan, although in all points considerably behind the German plans under which the invasion was actually carried out. These documents indicate that an altered plan had been finally agreed upon on 20 March 1940, that a convoy should leave England on 5 April, and that mining in Norwegian waters would begin the same day; and that on 5 April the sailing time had been postponed until 8 April. But these plans were not the cause of the German invasion of Norway. Norway was occupied by Germany to afford her bases from which a more effective attack on England and France might be made, pursuant to plans prepared long in advance of the Allied plans which are now relied on to support the argument of self-defense.

It was further argued that Germany alone could decide, in accordance with the reservations made by many of the Signatory Powers at the time of the conclusion of the Kellogg-Briand Pact, whether preventive action was a necessity, and that in making her decision her judgment was conclusive. But whether action taken under the claim of self-defense was in fact aggressive or defensive must ultimately be subject to investigation and adjudication if international law is ever to be enforced.

No suggestion is made by the defendants that there was any plan by any belligerent, other than Germany, to occupy Denmark. No excuse for that aggression has ever been offered.

As the German Armies entered Norway and Denmark, German memoranda were handed to the Norwegian and Danish Governments which gave the assurance that the German troops did not come as enemies, that they did not intend to make use of the points occupied by German troops as bases for operations against England, as long as they were not forced to do so by measures taken by England and France, and that they had come to protect the North against the proposed occupation of Norwegian strong points by English-French forces.

The memoranda added that Germany had no intention of infringing upon the territorial integrity and political independence of the Kingdom of Norway then or in the future. Nevertheless, on 3 June 1940, a German naval memorandum discussed the use to be made of Norway and Denmark, and put forward one solution for con-

sideration, that the territories of Denmark and Norway acquired during the course of the war should continue to be occupied and organized so that they could in the future be considered as German possessions.

In the light of all the available evidence it is impossible to accept the contention that the invasions of Denmark and Norway were defensive, and in the opinion of the Tribunal they were acts of aggressive war.

The Invasion of Belgium, the Netherlands, and Luxembourg

The plan to seize Belgium and the Netherlands was considered in August 1938, when the attack on Czechoslovakia was being formulated, and the possibility of war with France and England was contemplated. The advantage to Germany of being able to use these countries for their own purposes, particularly as air bases in the war against England and France, was emphasized. In May of 1939, when Hitler made his irrevocable decision to attack Poland, and foresaw the possibility at least of a war with England and France in consequence, he told his military commanders:

"Dutch and Belgian air bases must be occupied . . . . Declarations of neutrality must be ignored."

On 22 August in the same year, he told his military commanders that England and France, in his opinion, would not "violate the neutrality of these countries." At the same time he assured Belgium and Holland and Luxembourg that he would respect their neutrality; and on 6 October 1939, after the Polish campaign, he repeated this assurance. On 7 October General Von Brauchitsch directed Army Group B to prepare "for the immediate invasion of Dutch and Belgian territory, if the political situation so demands." In a series of orders, which were signed by the Defendants Keitel and Jodl, the attack was fixed for 10 November 1939, but it was postponed from time to time until May of 1940 on account of weather conditions and transport problems.

At the conference on 23 November 1939 Hitler said:

"We have an Achilles heel: The Ruhr. The progress of the war depends on the possession of the Ruhr. If England and France push through Belgium and Holland into the Ruhr, we shall be in the greatest danger . . . . Certainly England and France will assume the offensive against Germany when they are armed. England and France have means of pressure to bring Belgium and Holland to request English and French help. In Belgium and Holland the sympathies are all for France and England . . . . If the French Army marches into Belgium in order to attack us, it will be too late for us. We must anticipate them . . . . We shall sow the English coast with mines which cannot be cleared. This mine warfare with

the Luftwaffe demands a different starting point. England cannot live without its imports. We can feed ourselves. The permanent sowing of mines on the English coasts will bring England to her knees. However, this can only occur if we have occupied Belgium and Holland . . . . My decision is unchangeable; I shall attack France and England at the most favorable and quickest moment. Breach of the neutrality of Belgium and Holland is meaningless. No one will question that when we have won. We shall not bring about the breach of neutrality as idiotically as it was in 1914. If we do not break the neutrality, then England and France will. Without attack, the war is not to be ended victoriously."

On 10 May 1940 the German forces invaded the Netherlands, Belgium, and Luxembourg. On the same day the German Ambassadors handed to the Netherlands and Belgian Governments a memorandum alleging that the British and French Armies, with the consent of Belgium and Holland, were planning to march through those countries to attack the Ruhr, and justifying the invasion on these grounds. Germany, however, assured the Netherlands and Belgium that their integrity and their possessions would be respected. A similar memorandum was delivered to Luxembourg on the same date.

There is no evidence before the Tribunal to justify the contention that the Netherlands, Belgium, and Luxembourg were invaded by Germany because their occupation had been planned by England and France. British and French staffs had been cooperating in making certain plans for military operations in the Low Countries, but the purpose of this planning was to defend these countries in the event of a German attack.

The invasion of Belgium, Holland, and Luxembourg was entirely without justification.

It was carried out in pursuance of policies long considered and prepared, and was plainly an act of aggressive war. The resolve to invade was made without any other consideration than the advancement of the aggressive policies of Germany.

The Aggression against Yugoslavia and Greece

On 12 August 1939 Hitler had a conversation with Ciano and the Defendant Von Ribbentrop at Obersalzberg. He said then:

"Generally speaking, the best thing to happen would be for the neutrals to be liquidated one after the other. This process could be carried out more easily if on every occasion one partner of the Axis covered the other while it was dealing with the uncertain neutral. Italy might well regard Yugoslavia as a neutral of this kind."

This observation was made only two months after Hitler had given assurances to Yugoslavia that he would regard her frontier as final and inviolable. On the occasion of the visit to Germany of the Prince Regent of Yugoslavia on 1 June 1939, Hitler had said in a public speech:

"The firmly established reliable relationship of Germany to Yugoslavia now that owing to historical events we have become neighbors with common boundaries fixed for all time, will not only guarantee lasting peace between our two peoples and countries, but can also represent an element of calm to our nerve-racked continent. This peace is the goal of all who are disposed to perform really constructive work."

On 6 October 1939 Germany repeated these assurances to Yugoslavia, after Hitler and Von Ribbentrop had unsuccessfully tried to persuade Italy to enter the war on the side of Germany by attacking Yugoslavia. On 28 October 1940 Italy invaded Greece, but the military operations met with no success. In November Hitler wrote to Mussolini with regard to the invasion of Greece, and the extension of the war in the Balkans, and pointed out that no military operations could take place in the Balkans before the following March, and therefore Yugoslavia must if at all possible be won over by other means, and in other ways. But on 12 November 1940 Hitler issued a directive for the prosecution of the war, and it included the words: "The Balkans: The Commander-in-Chief of the Army will make preparations for occupying the Greek mainland north of the Aegean Sea, in case of need entering through Bulgaria."

On 13 December he issued a directive concerning the operation "Marita," the code name for the invasion of Greece, in which he stated:

"1. The result of the battles in Albania is not yet decisive. Because of a dangerous situation in Albania, it is doubly necessary that the British endeavor be foiled to create air bases under the protection of a Balkan front, which would be dangerous above all to Italy as to the Rumanian oilfields.

2. My plan therefore is (a) to form a slowly increasing task force in Southern Rumania within the next month, (b) after the setting in of favorable weather, probably in March, to send a task force for the occupation of the Aegean north coast by way of Bulgaria and if necessary to occupy the entire Greek mainland."

On 20 January 1941, at a meeting between Hitler and Mussolini, at which the Defendants Von Ribbentrop, Keitel, Jodl, and others were present, Hitler stated:

"The massing of troops in Rumania serves a threefold purpose:

(a) An operation against Greece;
(b) Protection of Bulgaria against Russia and Turkey;
(c) Safeguarding the guarantee to Rumania . . . .
It is desirable that this deployment be completed without interference from the enemy. Therefore, disclose the game as late as possible. The tendency will be to cross the Danube at the last possible moment, and to line up for attack at the earliest possible moment."

On 19 February 1941 an OKW directive regarding the operation "Marita" stated: "On 18 February the Führer made the following decision regarding the carrying out of Operation Marita: The following dates are envisaged: Commencement of building bridge, 28 February; crossing of the Danube, 2 March."

On 3 March 1941, British troops landed in Greece to assist the Greeks to resist the Italians; and on 18 March, at a meeting between Hitler and the Defendant Raeder, at which the Defendants Keitel and Jodl were also present, the Defendant Raeder asked for confirmation that the "whole of Greece will have to be occupied, even in the event of a peaceful settlement," to which Hitler replied, "The complete occupation is a prerequisite of any settlement."

On 25 March, on the occasion of the adherence of Yugoslavia to the Tripartite Pact at a meeting in Vienna, the Defendant Von Ribbentrop, on behalf of the German Government, confirmed the determination of Germany to respect the sovereignty and territorial integrity of Yugoslavia at all times. On 26 March the Yugoslav Ministers, who had adhered to the Tripartite Pact, were removed from office by a *coup d'état* in Belgrade on their return from Vienna, and the new Government repudiated the Pact. Thereupon on 27 March, at a conference in Berlin with the High Command at which the Defendants Göring, Keitel, and Jodl were present, and the Defendant Von Ribbentrop part of the time, Hitler stated that Yugoslavia was an uncertain factor in regard to the contemplated attack on Greece, and even more so with regard to the attack upon Russia which was to be conducted later on. Hitler announced that he was determined, without waiting for possible loyalty declarations of the new Government, to make all preparations in order to destroy Yugoslavia militarily and as a national unit. He stated that he would act with "unmerciful harshness."

On 6 April German forces invaded Greece and Yugoslavia without warning, and Belgrade was bombed by the Luftwaffe. So swift was this particular invasion that there had not been time to establish any "incidents" as a usual preliminary, or to find and publish any adequate "political" explanations. As the attack was starting on 6 April, Hitler proclaimed to the German people that this attack was necessary because the British forces in Greece (who were help-

ing the Greeks to defend themselves against the Italians) represented a British attempt to extend the war to the Balkans.

It is clear from this narrative that aggressive war against Greece and Yugoslavia had long been in contemplation, certainly as early as August of 1939. The fact that Great Britain had come to the assistance of the Greeks, and might thereafter be in a position to inflict great damage upon German interests was made the occasion for the occupation of both countries.

The Aggressive War against the Union of Soviet Socialist Republics

On 23 August 1939 Germany signed the non-aggression pact with the Union of Soviet Socialist Republics.

The evidence has shown unmistakably that the Soviet Union on their part conformed to the terms of this pact; indeed the German Government itself had been assured of this by the highest German sources. Thus, the German Ambassador in Moscow informed his Government that the Soviet Union would go to war only if attacked by Germany, and this statement is recorded in the German War Diary under the date of 6 June 1941.

Nevertheless, as early as the late summer of 1940, Germany began to make preparations for an attack on the U.S.S.R., in spite of the non-aggression pact. This operation was secretly planned under the code name "Case Barbarossa", and the former Field Marshal Paulus testified that on 3 September 1940, when he joined the German General Staff, he continued developing "Case Barbarossa", which was finally completed at the beginning of November 1940; and that even then, the German General Staff had no information that the Soviet Union was preparing for war.

On 18 December 1940 Hitler issued Directive No. 21, initialed by Keitel and Jodl, which called for the completion of all preparations connected with the realization of "Case Barbarossa" by 15 May 1941. This directive stated:

> "The German armed forces must be prepared to crush Soviet Russia in a quick campaign before the end of the war against England . . . . Great caution has to be exercised that the intention of an attack will not be recognized."

Before the directive of 18 December had been made, the Defendant Göring had informed General Thomas, chief of the Office of War Economy of the OKW, of the plan, and General Thomas made surveys of the economic possibilities of the U.S.S.R., including its raw materials, its power and transport system, and its capacity to produce arms.

In accordance with these surveys, an economic staff for the Eastern territories with many military-economic units (inspectorates,

commandos, groups) was created under the supervision of the Defendant Göring. In conjunction with the military command, these units were to achieve the most complete and efficient economic exploitation of the occupied territories in the interest of Germany.

The framework of the future political and economic organization of the occupied territories was designed by the Defendant Rosenberg over a period of three months, after conferences with and assistance by the Defendants Keitel, Jodl, Raeder, Funk, Göring, Von Ribbentrop, and Frick, or their representatives. It was made the subject of a most detailed report immediately after the invasion.

These plans outlined the destruction of the Soviet Union as an independent State, and its partition, the creation of so-called Reich Commissariats, and the conversion of Estonia, Latvia, Bielorussia, and other territories into German colonies.

At the same time Germany drew Hungary, Rumania, and Finland into the war against the U.S.S.R. In December 1940 Hungary agreed to participate on the promise of Germany that she should have certain territories at the expense of Yugoslavia.

In May 1941 a final agreement was concluded with Antonescu, the Prime Minister of Rumania, regarding the attack on the U.S.S.R., in which Germany promised to Rumania, Bessarabia, Northern Bukovina, and the right to occupy Soviet territory up to the Dnieper.

On 22 June 1941, without any declaration of war, Germany invaded Soviet territory in accordance with the plans so long made.

The evidence which has been given before this Tribunal proves that Germany had the design carefully thought out, to crush the U.S.S.R. as a political and military power, so that Germany might expand to the east according to her own desire. In *Mein Kampf*, Hitler had written: "If new territory were to be acquired in Europe, it must have been mainly at Russia's cost, and once again the new German Empire should have set out on its march along the same road as was formerly trodden by the Teutonic Knights, this time to acquire soil for the German plough by means of the German sword and thus provide the Nation with its daily bread." But there was a more immediate purpose, and in one of the memoranda of the OKW, that immediate purpose was stated to be to feed the German Armies from Soviet territory in the third year of the war, even if "as a result many millions of people will be starved to death if we take out of the country the things necessary for us."

The final aims of the attack on the Soviet Union were formulated at a conference with Hitler on 16 July 1941, in which the Defendants Göring, Keitel, Rosenberg, and Bormann participated:

"There can be no talk of the creation of a military power west of the Urals, even if we should have to fight 100 years to

achieve this . . . . All the Baltic regions must become part of the Reich. The Crimea and adjoining regions (north of the Crimea) must likewise be incorporated into the Reich. The region of the Volga as well as the Baku district must likewise be incorporated into the Reich. The Finns want Eastern Karelia. However, in view of the large deposits of nickel, the Kola peninsula must be ceded to Germany."

It was contended for the defendants that the attack upon the U.S.S.R. was justified because the Soviet Union was contemplating an attack upon Germany, and making preparations to that end. It is impossible to believe that this view was ever honestly entertained.

The plans for the economic exploitation of the U.S.S.R., for the removal of masses of the population, for the murder of Commissars and political leaders, were all part of the carefully prepared scheme launched on 22 June without warning of any kind, and without the shadow of legal excuse. It was plain aggression.

War against the United States

Four days after the attack launched by the Japanese on the United States fleet in Pearl Harbor on 7 December 1941, Germany declared war on the United States.

The Tripartite Pact between Germany, Italy, and Japan, had been signed on 27 September 1940, and from that date until the attack upon the U.S.S.R. the Defendant Von Ribbentrop, with other defendants, was endeavoring to induce Japan to attack British possessions in the Far East. This, it was thought, would hasten England's defeat, and keep the United States out of the war.

The possibility of a direct attack on the United States was considered and discussed as a matter for the future. Major Von Falkenstein, the Luftwaffe liaison officer with the Operations Staff of the OKW, summarizing military problems which needed discussion in Berlin in October of 1940, spoke of the possibility "of the prosecution of the war against America at a later date." It is clear, too, that the German policy of keeping America out of the war, if possible, did not prevent Germany promising support to Japan even against the United States. On 4 April 1941 Hitler told Matsuoka, the Japanese Foreign Minister, in the presence of the Defendant Von Ribbentrop, that Germany would "strike without delay" if a Japanese attack on Singapore should lead to war between Japan and the United States. The next day Von Ribbentrop himself urged Matsuoka to bring Japan into the war.

On 28 November 1941, 10 days before the attack on Pearl Harbor, Von Ribbentrop encouraged Japan, through her Ambassador in Berlin, to attack Great Britain and the United States, and stated that should Japan become engaged in a war with the United States, Ger-

many would join the war immediately. A few days later, Japanese representatives told Germany and Italy that Japan was preparing to attack the United States, and asked for their support. Germany and Italy agreed to do this, although in the Tripartite Pact, Italy and Germany had undertaken to assist Japan only if she were attacked. When the assault on Pearl Harbor did take place, the Defendant Von Ribbentrop is reported to have been "overjoyed", and later, at a ceremony in Berlin, when a German medal was awarded to Oshima, the Japanese Ambassador, Hitler indicated his approval of the tactics which the Japanese had adopted of negotiating with the United States as long as possible, and then striking hard without any declaration of war.

Although it is true that Hitler and his colleagues originally did not consider that a war with the United States would be beneficial to their interest, it is apparent that in the course of 1941 that view was revised, and Japan was given every encouragement to adopt a policy which would almost certainly bring the United States into the war. And when Japan attacked the United States fleet in Pearl Harbor and thus made aggressive war against the United States, the Nazi Government caused Germany to enter that war at once on the side of Japan by declaring war themselves on the United States.

Violations of International Treaties

The Charter defines as a crime the planning or waging of war that is a war of aggression or a war in violation of international treaties. The Tribunal has decided that certain of the defendants planned and waged aggressive wars against 12 nations, and were therefore guilty of this series of crimes. This makes it unnecessary to discuss the subject in further detail, or even to consider at any length the extent to which these aggressive wars were also "wars in violation of international treaties, agreements, or assurances."

These treaties are set out in Appendix C of the Indictment. Those of principal importance are the following.

Hague Conventions

In the 1899 Convention the signatory powers agreed: "before an appeal to arms . . . to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly powers." A similar clause was inserted in the Convention for Pacific Settlement of International Disputes of 1907. In the accompanying Convention Relative to Opening of Hostilities, Article I contains this far more specific language: "The Contracting Powers recognize that hostilities between them must not commence without a previous and explicit warning, in the form of either a declaration of war, giving

reasons, or an ultimatum with a conditional declaration of war." Germany was a party to these conventions.

Versailles Treaty

Breaches of certain provisions of the Versailles Treaty are also relied on by the Prosecution—Not to fortify the left bank of the Rhine (Articles 42-44); to "respect strictly the independence of Austria" (Article 80); renunciation of any rights in Memel (Article 99) and the Free City of Danzig (Article 100); the recognition of the independence of the Czechoslovak State; and the military, naval, and air clauses against German rearmament found in Part V. There is no doubt that action was taken by the German Government contrary to all these provisions, the details of which are set out in Appendix C. With regard to the Treaty of Versailles, the matters relied on are:

1. The violation of Articles 42 to 44 in respect of the demilitarized zone of the Rhineland;

2. The annexation of Austria on 13 March 1938, in violation of Article 80;

3. The incorporation of the district of Memel on 22 March 1939, in violation of Article 99;

4. The incorporation of the Free City of Danzig on 1 September 1939, in violation of Article 100;

5. The incorporation of the provinces of Bohemia and Moravia on 16 March 1939, in violation of Article 81;

6. The repudiation of the military, naval, and air clauses of the Treaty, in or about March of 1935.

On 21 May 1935 Germany announced that, whilst renouncing the disarmament clauses of the Treaty, she would still respect the territorial limitations, and would comply with the Locarno Pact. (With regard to the first five breaches alleged, therefore, the Tribunal finds the allegation proved.)

Treaties of Mutual Guarantee, Arbitration, and Non-Aggression

It is unnecessary to discuss in any detail the various treaties entered into by Germany with other Powers. Treaties of mutual guarantee were signed by Germany at Locarno in 1925, with Belgium, France, Great Britain, and Italy, assuring the maintenance of the territorial *status quo*. Arbitration treaties were also executed by Germany at Locarno with Czechoslovakia, Belgium, and Poland.

Article I of the latter treaty is typical, providing: "All disputes of every kind between Germany and Poland . . . which it may not be possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision to an arbitral tribunal . . . ."

Conventions of Arbitration and Conciliation were entered into between Germany, the Netherlands, and Denmark in 1926; and between Germany and Luxembourg in 1929. Non-aggression treaties were executed by Germany with Denmark and Russia in 1939.

Kellogg-Briand Pact

The Pact of Paris was signed on 27 August 1928 by Germany, the United States, Belgium, France, Great Britain, Italy, Japan. Poland, and other countries; and subsequently by other Powers. The Tribunal has made full reference to the nature of this Pact and its legal effect in another part of this judgment. It is therefore not necessary to discuss the matter further here, save to state that in the opinion of the Tribunal this Pact was violated by Germany in all the cases of aggressive war charged in the Indictment. It is to be noted that on 26 January 1934 Germany signed a Declaration for the Maintenance of Permanent Peace with Poland, which was explicitly based on the Pact of Paris, and in which the use of force was outlawed for a period of 10 years.

The Tribunal does not find it necessary to consider any of the other treaties referred to in the Appendix, or the repeated agreements and assurances of her peaceful intentions entered into by Germany.

The Law of the Charter

The jurisdiction of the Tribunal is defined in the Agreement and Charter, and the crimes coming within the jurisdiction of the Tribunal, for which there shall be individual responsibility, are set out in Article 6. The law of the Charter is decisive, and binding upon the Tribunal.

The making of the Charter was the exercise of the sovereign legislative power by the countries to which the German Reich unconditionally surrendered; and the undoubted right of these countries to legislate for the occupied territories has been recognized by the civilized world. The Charter is not an arbitrary exercise of power on the part of the victorious Nations, but in the view of the Tribunal, as will be shown, it is the expression of international law existing at the time of its creation; and to that extent is itself a contribution to international law.

The Signatory Powers created this Tribunal, defined the law it was to administer, and made regulations for the proper conduct of the Trial. In doing so, they have done together what any one of them might have done singly; for it is not to be doubted that any nation has the right thus to set up special courts to administer law. With regard to the constitution of the Court, all that the defendants are entitled to ask is to receive a fair trial on the facts and law.

The Charter makes the planning or waging of a war of aggression or a war in violation of international treaties a crime; and it is therefore not strictly necessary to consider whether and to what extent aggressive war was a crime before the execution of the London Agreement. But in view of the great importance of the questions of law involved, the Tribunal has heard full argument from the Prosecution and the Defense, and will express its view on the matter.

It was urged on behalf of the defendants that a fundamental principle of all law—international and domestic—is that there can be no punishment of crime without a pre-existing law. "*Nullum crimen sine lege, nulla poena sine lege.*" It was submitted that *ex post facto* punishment is abhorrent to the law of all civilized nations, that no sovereign power had made aggressive war a crime at the time that the alleged criminal acts were committed, that no statute had defined aggressive war, that no penalty had been fixed for its commission, and no court had been created to try and punish offenders.

In the first place, it is to be observed that the maxim *nullum crimen sine lege* is not a limitation of sovereignty, but is in general a principle of justice. To assert that it is unjust to punish those who in defiance of treaties and assurances have attacked neighboring states without warning is obviously untrue, for in such circumstances the attacker must know that he is doing wrong, and so far from it being unjust to punish him, it would be unjust if his wrong were allowed to go unpunished. Occupying the positions they did in the Government of Germany, the defendants, or at least some of them must have known of the treaties signed by Germany, outlawing recourse to war for the settlement of international disputes; they must have known that they were acting in defiance of all international law when in complete deliberation they carried out their designs of invasion and aggression. On this view of the case alone, it would appear that the maxim has no application to the present facts.

This view is strongly reinforced by a consideration of the state of international law in 1939, so far as aggressive war is concerned. The General Treaty for the Renunciation of War of 27 August 1928, more generally known as the Pact of Paris or the Kellogg-Briand Pact, was binding on 63 nations, including Germany, Italy, and Japan at the outbreak of war in 1939. In the preamble, the signatories declared that they were:

> "Deeply sensible of their solemn duty to promote the welfare of mankind; persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples should be perpetuated . . . .

all changes in their relations with one another should be sought only by pacific means . . . thus uniting civilised nations of the world in a common renunciation of war as an instrument of their national policy . . . ."

The first two articles are as follows:

"Article I. The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies and renounce it as an instrument of national policy in their relations to one another."

"Article II. The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

The question is, what was the legal effect of this Pact? The nations who signed the Pact or adhered to it unconditionally condemned recourse to war for the future as an instrument of policy, and expressly renounced it. After the signing of the Pact, any nation resorting to war as an instrument of national policy breaks the Pact. In the opinion of the Tribunal, the solemn renunciation of war as an instrument of national policy necessarily involves the proposition that such a war is illegal in international law; and that those who plan and wage such a war, with its inevitable and terrible consequences, are committing a crime in so doing. War for the solution of international controversies undertaken as an instrument of national policy certainly includes a war of aggression, and such a war is therefore outlawed by the Pact. As Mr. Henry L. Stimson, then Secretary of State of the United States, said in 1932:

"War between nations was renounced by the signatories of the Kellogg-Briand Treaty. This means that it has become throughout practically the entire world . . . an illegal thing. Hereafter, when nations engage in armed conflict, either one or both of them must be termed violators of this general treaty law . . . . We denounce them as law breakers."

But it is argued that the Pact does not expressly enact that such wars are crimes, or set up courts to try those who make such wars. To that extent the same is true with regard to the laws of war contained in the Hague Convention. The Hague Convention of 1907 prohibited resort to certain methods of waging war. These included the inhumane treatment of prisoners, the employment of poisoned weapons, the improper use of flags of truce, and similar matters. Many of these prohibitions had been enforced long before the date of the Convention; but since 1907 they have certainly been crimes, punishable as offenses against the laws of war; yet the Hague Con-

vention nowhere designates such practices as criminal, nor is any sentence prescribed, nor any mention made of a court to try and punish offenders. For many years past, however, military tribunals have tried and punished individuals guilty of violating the rules of land warfare laid down by this Convention. In the opinion of the Tribunal, those who wage aggressive war are doing that which is equally illegal, and of much greater moment than a breach of one of the rules of the Hague Convention. In interpreting the words of the Pact, it must be remembered that international law is not the product of an international legislature, and that such international agreements as the Pact of Paris have to deal with general principles of law, and not with administrative matters of procedure. The law of war is to be found not only in treaties, but in the customs and practices of states which gradually obtained universal recognition, and from the general principles of justice applied by jurists and practised by military courts. This law is not static, but by continual adaptation follows the needs of a changing world. Indeed, in many cases treaties do no more than express and define for more accurate reference the principles of law already existing.

The view which the Tribunal takes of the true interpretation of the Pact is supported by the international history which preceded it. In the year 1923 the draft of a Treaty of Mutual Assistance was sponsored by the League of Nations. In Article I the Treaty declared "that aggressive war is an international crime", and that the parties would "undertake that no one of them will be guilty of its commission". The draft treaty was submitted to 29 states, about half of whom were in favor of accepting the text. The principal objection appeared to be in the difficulty of defining the acts which would constitute "aggression", rather than any doubt as to the criminality of aggressive war. The preamble to the League of Nations 1924 Protocol for the Pacific Settlement of International Disputes ("Geneva Protocol"), after "recognising the solidarity of the members of the international community", declared that "a war of aggression constitutes a violation of this solidarity and is an international crime." It went on to declare that the contracting parties were "desirous of facilitating the complete application of the system provided in the Covenant of the League of Nations for the pacific settlement of disputes between the States and of ensuring the repression of international crimes." The Protocol was recommended to the members of the League of Nations by a unanimous resolution in the assembly of the 48 members of the League. These members included Italy and Japan, but Germany was not then a members of the League.

Although the Protocol was never ratified, it was signed by the leading statesmen of the world, representing the vast majority of

the civilized states and peoples, and may be regarded as strong evidence of the intention to brand aggressive war as an international crime.

At the meeting of the Assembly of the League of Nations on 24 September 1927, all the delegations then present (including the German, the Italian, and the Japanese), unanimously adopted a declaration concerning wars of aggression. The preamble to the declaration stated:

"The Assembly:

Recognizing the solidarity which unites the community of nations;

Being inspired by a firm desire for the maintenance of general peace;

Being convinced that a war of aggression can never serve as a means of settling international disputes, and is in consequence an international crime . . ."

The unanimous resolution of 18 February 1928 of 21 American republics at the Sixth (Havana) Pan-American Conference, declared that "war of aggression constitutes an international crime against the human species".

All these expressions of opinion, and others that could be cited, so solemnly made, reinforce the construction which the Tribunal placed upon the Pact of Paris, that resort to a war of aggression is not merely illegal, but is criminal. The prohibition of aggressive war demanded by the conscience of the world, finds its expression in the series of pacts and treaties to which the Tribunal has just referred.

It is also important to remember that Article 227 of the Treaty of Versailles provided for the constitution of a special Tribunal, composed of representatives of five of the Allied and Associated Powers which had been belligerents in the first World War opposed to Germany, to try the former German Emperor "for a supreme offense against international morality and the sanctity of treaties." The purpose of this trial was expressed to be "to vindicate the solemn obligations of international undertakings, and the validity of international morality". In Article 228 of the Treaty, the German Government expressly recognized the right of the Allied Powers "to bring before military tribunals persons accused of having committed acts in violation of the laws and customs of war".

It was submitted that international law is concerned with the actions of sovereign States, and provides no punishment for individuals; and further, that where the act in question is an act of State, those who carry it out are not personally responsible, but are protected by the doctrine of the sovereignty of the State. In the opinion

of the Tribunal, both these submissions must be rejected. That international law imposes duties and liabilities upon individuals as well as upon States has long been recognized. In the recent case of Ex Parte Quirin (1942 317 U.S. 1), before the Supreme Court of the United States, persons were charged during the war with landing in the United States for purposes of spying and sabotage. The late Chief Justice Stone, speaking for the Court, said:

> "From the very beginning of its history this Court has applied the law of war as including that part of the law of nations which prescribes for the conduct of war, the status, rights, and duties of enemy nations as well as enemy individuals."

He went on to give a list of cases tried by the Courts, where individual offenders were charged with offenses against the laws of nations, and particularly the laws of war. Many other authorities could be cited, but enough has been said to show that individuals can be punished for violations of international law. Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced.

The provisions of Article 228 of the Treaty of Versailles already referred to illustrate and enforce this view of individual responsibility.

The principle of international law, which under certain circumstances, protects the representatives of a state, cannot be applied to acts which are condemned as criminal by international law. The authors of these acts cannot shelter themselves behind their official position in order to be freed from punishment in appropriate proceedings. Article 7 of the Charter expressly declares:

> "The official position of Defendants, whether as heads of State, or responsible officials in Government departments, shall not be considered as freeing them from responsibility, or mitigating punishment."

On the other hand the very essence of the Charter is that individuals have international duties which transcend the national obligations of obedience imposed by the individual state. He who violates the laws of war cannot obtain immunity while acting in pursuance of the authority of the state if the state in authorizing action moves outside its competence under international law.

It was also submitted on behalf of most of these defendants that in doing what they did they were acting under the orders of Hitler, and therefore cannot be held responsible for the acts comitted by them in carrying out these orders. The Charter specifically provides in Article 8:

"The fact that the Defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment."

The provisions of this article are in conformity with the law of all nations. That a soldier was ordered to kill or torture in violation of the international law of war has never been recognized as a defense to such acts of brutality, though, as the Charter here provides, the order may be urged in mitigation of the punishment. The true test, which is found in varying degrees in the criminal law of most nations, is not the existence of the order, but whether moral choice was in fact possible.

The Law as to the Common Plan or Conspiracy

In the previous recital of the facts relating to aggressive war, it is clear that planning and preparation had been carried out in the most systematic way at every stage of the history.

Planning and preparation are essential to the making of war. In the opinion of the Tribunal aggressive war is a crime under international law. The Charter defines this offense as planning, preparation, initiation, or waging of a war of aggression "*or* participation in a Common Plan or Conspiracy for the accomplishment . . . of the foregoing". The Indictment follows this distinction. Count One charges the Common Plan or Conspiracy. Count Two charges the planning and waging of war. The same evidence has been introduced to support both Counts. We shall therefore discuss both Counts together, as they are in substance the same. The defendants have been charged under both Counts, and their guilt under each Count must be determined.

The "Common Plan or Conspiracy" charged in the Indictment covers 25 years, from the formation of the Nazi Party in 1919 to the end of the war in 1945. The Party is spoken of as "the instrument of cohesion among the Defendants" for carrying out the purposes of the conspiracy — the overthrowing of the Treaty of Versailles, acquiring territory lost by Germany in the last war and "Lebensraum" in Europe, by the use, if necessary, of armed force, of aggressive war. The "seizure of power" by the Nazis, the use of terror, the destruction of trade unions, the attack on Christian teaching and on churches, the persecution of Jews, the regimentation of youth — all these are said to be steps deliberately taken to carry out the common plan. It found expression, so it is alleged, in secret rearmament, the withdrawal by Germany from the Disarmament Conference and the League of Nations, universal military service, and seizure of the Rhineland. Finally, according to the Indictment, aggressive action was planned and carried out against Austria and Czechoslovakia in 1936-1938, followed by the

planning and waging of war against Poland; and, successively, against 10 other countries.

The Prosecution says, in effect, that any significant participation in the affairs of the Nazi Party or Government is evidence of a participation in a conspiracy that is in itself criminal. Conspiracy is not defined in the Charter. But in the opinion of the Tribunal the conspiracy must be clearly outlined in its criminal purpose. It must not be too far removed from the time of decision and of action. The planning, to be criminal, must not rest merely on the declarations of a party program, such as are found in the 25 points of the Nazi Party, announced in 1920, or the political affirmations expressed in *Mein Kampf* in later years. The Tribunal must examine whether a concrete plan to wage war existed, and determine the participants in that concrete plan.

It is not necessary to decide whether a single master conspiracy between the defendants has been established by the evidence. The seizure of power by the Nazi Party, and the subsequent domination by the Nazi State of all spheres of economic and social life must of course be remembered when the later plans for waging war are examined. That plans were made to wage war, as early as 5 November 1937, and probably before that, is apparent. And thereafter, such preparations continued in many directions, and against the peace of many countries. Indeed the threat of war — and war itself if necessary — was an integral part of the Nazi policy. But the evidence establishes with certainty the existence of many separate plans rather than a single conspiracy embracing them all. That Germany was rapidly moving to complete dictatorship from the moment that the Nazis seized power, and progressively in the direction of war, has been overwhelmingly shown in the ordered sequence of aggressive acts and wars already set out in this Judgment.

In the opinion of the Tribunal, the evidence establishes the common planning to prepare and wage war by certain of the defendants. It is immaterial to consider whether a single conspiracy to the extent and over the time set out in the Indictment has been conclusively proved. Continued planning, with aggressive war as the objective, has been established beyond doubt. The truth of the situation was well stated by Paul Schmidt, official interpreter of the German Foreign Office, as follows:

> "The general objectives of the Nazi leadership were apparent from the start, namely the domination of the European Continent, to be achieved first by the incorporation of all German speaking groups in the Reich, and secondly, by territorial expansion under the slogan "Lebensraum". The execution of these basic objectives, however, seemed to be characterized

by improvisation. Each succeeding step was apparently carried out as each new situation arose, but all consistent with the ultimate objectives mentioned above."

The argument that such common planning cannot exist where there is complete dictatorship is unsound. A plan in the execution of which a number of persons participate is still a plan, even though conceived by only one of them; and those who execute the plan do not avoid responsibility by showing that they acted under the direction of the man who conceived it. Hitler could not make aggressive war by himself. He had to have the co-operation of statesmen, military leaders, diplomats, and business men. When they, with knowledge of his aims, gave him their co-operation, they made themselves parties to the plan he had initiated. They are not to be deemed innocent because Hitler made use of them, if they knew what they were doing. That they were assigned to their tasks by a dictator does not absolve them from responsibility for their acts. The relation of leader and follower does not preclude responsibility here any more than it does in the comparable tyranny of organized domestic crime.

Count One, however, charges not only the conspiracy to commit aggressive war, but also to commit War Crimes and Crimes against Humanity. But the Charter does not define as a separate crime any conspiracy except the one to commit acts of aggressive war. Article 6 of the Charter provides:

"Leaders, organizers, instigators, and accomplices participating in the formulation or execution of a Common Plan or Conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan."

In the opinion of the Tribunal these words do not add a new and separate crime to those already listed. The words are designed to establish the responsibility of persons participating in a common plan. The Tribunal will therefore disregard the charges in Count One that the defendants conspired to commit War Crimes and Crimes against Humanity, and will consider only the common plan to prepare, initiate, and wage aggressive war.

War Crimes and Crimes against Humanity

The evidence relating to War Crimes has been overwhelming, in its volume and its detail. It is imposible for this Judgment adequately to review it, or to record the mass of documentary and oral evidence that has been presented. The truth remains that War Crimes were committed on a vast scale, never before seen in the history of war. They were perpetrated in all the countries occupied

by Germany, and on the High Seas, and were attended by every conceivable circumstance of cruelty and horror. There can be no doubt that the majority of them arose from the Nazi conception of "total war", with which the aggressive wars were waged. For in this conception of "total war", the moral ideas underlying the conventions which seek to make war more humane are no longer regarded as having force or validity. Everything is made subordinate to the overmastering dictates of war. Rules, regulations, assurances, and treaties all alike are of no moment; and so, freed from the restraining influence of international law, the aggressive war is conducted by the Nazi leaders in the most barbaric way. Accordingly, War Crimes were committed when and wherever the Führer and his close associates thought them to be advantageous. They were for the most part the result of cold and criminal calculation.

On some occasions, War Crimes were deliberately planned long in advance. In the case of the Soviet Union, the plunder of the territories to be occupied, and the ill-treatment of the civilian population, were settled in minute detail before the attack was begun. As early as the autumn of 1940, the invasion of the territories of the Soviet Union was being considered. From that date onwards, the methods to be employed in destroying all possible opposition were continuously under discussion.

Similarly, when planning to exploit the inhabitants of the occupied countries for slave labor on the very greatest scale, the German Government conceived it as an integral part of the war economy, and planned and organized this particular War Crime down to the last elaborate detail.

Other War Crimes, such as the murder of prisoners of war who had escaped and been recaptured, or the murder of Commandos or captured airmen, or the destruction of the Soviet Commissars, were the result of direct orders circulated through the highest official channels.

The Tribunal proposes, therefore, to deal quite generally with the question of War Crimes, and to refer to them later when examining the responsibility of the individual defendants in relation to them. Prisoners of war were ill-treated and tortured and murdered, not only in defiance of the well-established rules of international law, but in complete disregard of the elementary dictates of humanity. Civilian populations in occupied territories suffered the same fate. Whole populations were deported to Germany for the purposes of slave labor upon defense works, armament production, and similar tasks connected with the war effort. Hostages were taken in very large numbers from the civilian populations in all the

occupied countries, and were shot as suited the German purposes. Public and private property was systematically plundered and pillaged in order to enlarge the resources of Germany at the expense of the rest of Europe. Cities and towns and villages were wantonly destroyed without military justification or necessity.

Murder and Ill-Treatment of Prisoners of War

> Article 6 (b) of the Charter defines War Crimes in these words: "War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity."

In the course of the war, many Allied soldiers who had surrendered to the Germans were shot immediately, often as a matter of deliberate, calculated policy. On 18 October 1942, the Defendant Keitel circulated a directive authorized by Hitler, which ordered that all members of Allied "Commando" units, often when in uniform and whether armed or not, were to be "slaughtered to the last man", even if they attempted to surrender. It was further provided that if such Allied troops came into the hands of the military authorities after being first captured by the local police, or in any other way, they should be handed over immediately to the SD. This order was supplemented from time to time, and was effective throughout the remainder of the war, although after the Allied landings in Normandy in 1944 it was made clear that the order did not apply to "Commandos" captured within the immediate battle area. Under the provisions of this order, Allied "Commando" troops, and other military units operating independently, lost their lives in Norway, France, Czechoslovakia, and Italy. Many of them were killed on the spot, and in no case were those who were executed later in concentration camps ever given a trial of any kind. For example, an American military mission which landed behind the German front in the Balkans in January 1945, numbering about twelve to fifteen men and wearing uniform, were taken to Mauthausen under the authority of this order, and according to the affidavit of Adolf Zutte, the adjutant of the Mauthausen Concentration Camp, all of them were shot.

In March 1944 the OKH issued the "Kugel" or "Bullet" decree, which directed that every escaped officer and NCO prisoner of war who had not been put to work, with the exception of British and

American prisoners of war, should on recapture be handed over to the SIPO and SD. This order was distributed by the SIPO and SD to their regional offices. These escaped officers and NCO's were to be sent to the concentration camp at Mauthausen, to be executed upon arrival, by means of a bullet shot in the neck.

In March 1944 fifty officers of the British Royal Air Force, who escaped from the camp at Sagan where they were confined as prisoners, were shot on recapture, on the direct orders of Hitler. Their bodies were immediately cremated, and the urns containing their ashes were returned to the camp. It was not contended by the defendants that this was other than plain murder, in complete violation of international law.

When Allied airmen were forced to land in Germany, they were sometimes killed at once by the civilian population. The police were instructed not to interfere with these killings, and the Ministry of Justice was informed that no one should be prosecuted for taking part in them.

The treatment of Soviet prisoners of war was characterized by particular inhumanity. The death of so many of them was not due merely to the action of individual guards, or to the exigencies of life in the camps. It was the result of systematic plans to murder. More than a month before the German invasion of the Soviet Union, the OKW were making special plans for dealing with political representatives serving with the Soviet Armed Forces who might be captured. One proposal was that "political Commissars *of the Army* are not recognized as *Prisoners of War*, and are to be *liquidated* at the latest in the transient prisoner of war camps." The Defendant Keitel gave evidence that instructions incorporating this proposal were issued to the German Army.

On 8 September 1941 regulations for the treatment of Soviet prisoners of war in all prisoner of war camps were issued, signed by General Reinecke, the head of the prisoner of war department of the High Command. Those orders stated:

> "The Bolshevist soldier has therefore lost all claim to treatment as an honorable opponent, in accordance with the Geneva Convention . . . . The order for ruthless and energetic action must be given at the slightest indication of insubordination, especially in the case of Bolshevist fanatics. Insubordination, active or passive resistance, must be broken immediately by force of arms (bayonets, butts, and firearms) . . . . Anyone carrying out the order who does not use his weapons, or does so with insufficient energy, is punishable . . . . Prisoners of war attempting escape are to be fired on without previous challenge. No warning shot must ever be fired . . . . The use of arms against prisoners of war is as a rule legal."

The Soviet prisoners of war were left without suitable clothing; the wounded without medical care; they were starved, and in many cases left to die.

On 17 July 1941, the Gestapo issued an order providing for the killing of all Soviet prisoners of war who were or might be dangerous to National Socialism. The order recited:

> "The mission of the Commanders of the SIPO and SD stationed in Stalags is the political investigation of all camp inmates, the elimination and further 'treatment' (a) of all political, criminal, or in some other way unbearable elements among them, (b) of those persons who could be used for the reconstruction of the occupied territories . . . . Further, the commanders must make efforts from the beginning to seek out among the prisoners elements which appear reliable, regardless of whether there are Communists concerned or not, in order to use them for intelligence purposes inside of the camp, and if advisable, later in the occupied territories also. By use of such informers, and by use of all other existing possibilities, the discovery of all elements to be eliminated among the prisoners must proceed step by step at once . . . ."
>
> "Above all, the following must be discovered: all important functionaries of State and Party, especially professional revolutionaries . . . all People's Commissars in the Red Army, leading personalities of the State . . . leading personalities of the business world, members of the Soviet Russian Intelligence, all Jews, all persons who are found to be agitators or fanatical Communists. Executions are not to be held in the camp or in the immediate vicinity of the camp . . . . The prisoners are to be taken for special treatment if possible into the former Soviet Russian territory."

The affidavit of Warlimont, Deputy Chief of Staff of the Wehrmacht, and the testimony of Ohlendorf, former Chief of Amt III of the RSHA, and of Lahousen, the head of one of the sections of the Abwehr, the Wehrmacht's Intelligence Service, all indicate the thoroughness with which this order was carried out.

> The affidavit of Kurt Lindown, a former Gestapo official, states: " . . . . There existed in the prisoner of war camps on the Eastern Front small screening teams (Einsatz commandos), headed by lower ranking members of the Secret Police (Gestapo). These teams were assigned to the camp commanders and had the job of segregating the prisoners of war who were candidates for execution according to the orders that had been given, and to report them to the office of the Secret Police."

On 23 October 1941 the camp commander of the Gross Rosen concentration camp reported to Müller, Chief of the Gestapo, a list of the Soviet prisoners of war who had been executed there on the previous day.

An account of the general conditions and treatment of Soviet prisoners of war during the first eight months after the German attack upon Russia was given in a letter which the Defendant Rosenberg sent to the Defendant Keitel on 28 February 1942:

> "The fate of the Soviet prisoners of war in Germany is on the contrary a tragedy of the greatest extent . . . . A large part of them has starved, or died because of the hazards of the weather. Thousands also died from spotted fever.
>
> "The camp commanders have forbidden the civilian population to put food at the disposal of the prisoners, and they have rather let them starve to death.
>
> "In many cases, when prisoners of war could no longer keep up on the march because of hunger and exhaustion, they were shot before the eyes of the horrified population, and the corpses were left.
>
> "In numerous camps, no shelter for the prisoners of war was provided at all. They lay under the open sky during rain or snow. Even tools were not made available to dig holes or caves."

In some cases Soviet prisoners of war were branded with a special permanent mark. There was put in evidence the OKW order dated 20 July 1942 which laid down that:

> "The brand is to take the shape of an acute angle of about 45 degrees, with the long side to be 1 cm. in length, pointing upwards and burnt on the left buttock . . . . This brand is made with the aid of a lancet available in any military unit. The coloring used is Chinese ink."

The carrying out of this order was the responsibility of the military authorities, though it was widely circulated by the Chief of the SIPO and the SD to German police officials for information.

Soviet prisoners of war were also made the subject of medical experiments of the most cruel and inhuman kind. In July 1943 experimental work was begun in preparation for a campaign of bacteriological warfare; Soviet prisoners of war were used in these medical experiments, which more often than not proved fatal. In connection with this campaign for bacteriological warfare, preparations were also made for the spreading of bacterial emulsions from planes, with the object of producing widespread failures of crops and consequent starvation. These measures were never applied, possibly because of the rapid deterioration of Germany's military position.

The argument in defense of the charge with regard to the murder and ill-treatment of Soviet prisoners of war, that the U.S.S.R. was not a party to the Geneva Convention, is quite without foundation. On 15 September 1941 Admiral Canaris protested against the regulations for the treatment of Soviet prisoners of war, signed by General Reinecke on 8 September 1941. He then stated:

> "The Geneva Convention for the treatment of prisoners of war is not binding in the relationship between Germany and the U.S.S.R. Therefore only the principles of general international law on the treatment of prisoners of war apply. Since the 18th century these have gradually been established along the lines that war captivity is neither revenge nor punishment, but solely protective custody, the only purpose of which is to prevent the prisoners of war from further participation in the war. This principle was developed in accordance with the view held by all armies that it is contrary to military tradition to kill or injure helpless people . . . . The decrees for the treatment of Soviet prisoners of war enclosed are based on a fundamentally different view-point."

This protest, which correctly stated the legal position, was ignored. The Defendant Keitel made a note on this memorandum:

> "The objections arise from the military concept of chivalrous warfare. This is the destruction of an ideology. Therefore I approve and back the measures."

Murder and Ill-treatment of Civilian Population

Article 6 (b) of the Charter provides that "ill-treatment . . . of civilian population of or in occupied territory . . . killing of hostages . . . wanton destruction of cities, towns, or villages" shall be a war crime. In the main, these provisions are merely declaratory of the existing laws of war as expressed by the Hague Convention, Article 46, which stated: "Family honor and rights, the lives of persons and private property, as well as religious convictions and practice must be respected."

The territories occupied by Germany were administered in violation of the laws of war. The evidence is quite overwhelming of a systematic rule of violence, brutality, and terror. On 7 December 1941 Hitler issued the directive since known as the "Nacht und Nebel Erlass" (Night and Fog Decree), under which persons who committed offenses against the Reich or the German forces in occupied territories, except where the death sentence was certain, were to be taken secretly to Germany and handed over to the SIPO and SD for trial or punishment in Germany. This decree was signed by the Defendant Keitel. After these civilians arrived in Germany,

no word of them was permitted to reach the country from which they came, or their relatives; even in cases when they died awaiting trial the families were not informed, the purpose being to create anxiety in the minds of the family of the arrested person. Hitler's purpose in issuing this decree was stated by the Defendant Keitel in a covering letter, dated 12 December 1941, to be as follows:

> "Efficient and enduring intimidation can only be achieved either by capital punishment or by measures by which the relatives of the criminal and the population do not know the fate of the criminal. This aim is achieved when the criminal is transferred to Germany."

Even persons who were only suspected of opposing any of the policies of the German occupation authorities were arrested, and on arrest were interrogated by the Gestapo and the SD in the most shameful manner. On 12 June 1942 the Chief of the SIPO and SD published, through Müller, the Gestapo Chief, an order authorizing the use of "third degree" methods of interrogation, where preliminary investigation had indicated that the person could give information on important matters, such as subversive activities, though not for the purpose of extorting confessions of the prisoner's own crimes. This order provided:

> ". . . . Third degree may, under this supposition, only be employed against Communists, Marxists, Jehovah's Witnesses, saboteurs, terrorists, members of resistance movements, parachute agents, anti-social elements, Polish or Soviet Russian loafers or tramps; in all other cases my permission must first be obtained . . . . Third degree can, according to circumstances, consist amongst other methods of very simple diet (bread and water), hard bunk, dark cell, deprivation of sleep, exhaustive drilling, also in flogging (for more than twenty strokes a doctor must be consulted)."

The brutal suppression of all opposition to the German occupation was not confined to severe measures against suspected members of resistance movements themselves, but was also extended to their families. On 19 July 1944 the Commander of the SIPO and SD in the district of Radom, in Poland, published an order, transmitted through the Higher SS and Police Leaders, to the effect that in all cases of assassination or attempted assassination of Germans, or where saboteurs had destroyed vital installations, not only the guilty person, but also all his or her male relatives should be shot, and female relatives over 16 years of age put into a concentration camp.

In the summer of 1944 the Einsatz Commando of the SIPO and SD at Luxembourg caused persons to be confined at Sachsenhausen concentration camp because they were relatives of deserters, and

were therefore "expected to endanger the interest of the German Reich if allowed to go free."

The practice of keeping hostages to prevent and to punish any form of civil disorder was resorted to by the Germans; an order issued by the Defendant Keitel on 16 September 1941 spoke in terms of fifty or a hundred lives from the occupied areas of the Soviet Union for one German life taken. The order stated that "it should be remembered that a human life in unsettled countries frequently counts for nothing, and a deterrent effect can be obtained only by unusual severity." The exact number of persons killed as a result of this policy is not known, but large numbers were killed in France and the other occupied territories in the West, while in the East the slaughter was on an even more extensive scale. In addition to the killing of hostages, entire towns were destroyed in some cases; such massacres as those of Oradour-sur-Glane in France and Lidice in Czechoslovakia, both of which were described to the Tribunal in detail, are examples of the organized use of terror by the occupying forces to beat down and destroy all opposition to their rule.

One of the most notorious means of terrorizing the people in occupied territories was the use of concentration camps. They were first established in Germany at the moment of the seizure of power by the Nazi Government. Their original purpose was to imprison without trial all those persons who were opposed to the Government, or who were in any way obnoxious to German authority. With the aid of a secret police force, this practice was widely extended, and in course of time concentration camps became places of organized and systematic murder, where millions of people were destroyed.

In the administration of the occupied territories the concentration camps were used to destroy all opposition groups. The persons arrested by the Gestapo were as a rule sent to concentration camps. They were conveyed to the camps in many cases without any care whatever being taken for them, and great numbers died on the way. Those who arrived at the camp were subject to systematic cruelty. They were given hard physical labor, inadequate food, clothes and shelter, and were subject at all times to the rigors of a soulless regime, and the private whims of individual guards. In the report of the War Crimes Branch of the Judge Advocate's Section of the Third U.S. Army, under date 21 June 1945, the conditions at the Flossenburg concentration camp were investigated, and one passage may be quoted:

> "Flossenburg concentration camp can best be described as a factory dealing in death. Although this camp had in view the primary object of putting to work the mass slave labor,

another of its primary objects was the elimination of human lives by the methods employed in handling the prisoners. Hunger and starvation rations, sadism, inadequate clothing, medical neglect, disease, beatings, hangings, freezing, forced suicides, shooting, etc. all played a major role in obtaining their object. Prisoners were murdered at random; spite killings against Jews were common, injections of poison and shooting in the neck were everyday occurrences; epidemics of typhus and spotted fever were permitted to run rampant as a means of eliminating prisoners; life in this camp meant nothing. Killing became a common thing, so common that a quick death was welcomed by the unfortunate ones."

A certain number of the concentration camps were equipped with gas chambers for the wholesale destruction of the inmates, and with furnaces for the burning of the bodies. Some of them were in fact used for the extermination of Jews as part of the "final solution" of the Jewish problem. Most of the non-Jewish inmates were used for labor, although the conditions under which they worked made labor and death almost synonymous terms. Those inmates who became ill and were unable to work were either destroyed in the gas chambers or sent to special infirmaries, where they were given entirely inadequate medical treatment, worse food if possible than the working inmates, and left to die.

The murder and ill-treatment of civilian populations reached its height in the treatment of the citizens of the Soviet Union and Poland. Some four weeks before the invasion of Russia began, special task forces of the SIPO and SD, called Einsatz Groups, were formed on the orders of Himmler for the purpose of following the German Armies into Russia, combating partisans and members of Resistance Groups, and exterminating the Jews and communist leaders and other sections of the population. In the beginning, four such Einsatz Groups were formed, one operating in the Baltic States, one towards Moscow, one towards Kiev, and one operating in the south of Russia. Ohlendorf, former Chief of Amt III of the RSHA, who led the fourth group, stated in his affidavit:

"When the German army invaded Russia, I was leader of Einsatzgruppe D, in the southern sector, and in the course of the year during which I was leader of the Einsatzgruppe D it liquidated approximately 90,000 men, women, and children. The majority of those liquidated were Jews, but there were also among them some communist functionaries."

In an order issued by the Defendant Keitel on 23 July 1941, and drafted by the Defendant Jodl, it was stated that:

"In view of the vast size of the occupied areas in the East, the forces available for establishing security in these areas

will be sufficient only if all resistance is punished, not by legal prosecution of the guilty, but by the spreading of such terror by the Armed Forces as is alone appropriate to eradicate every inclination to resist among the population . . . . Commanders must find the means of keeping order by applying suitable Draconian measures."

The evidence has shown that this order was ruthlessly carried out in the territory of the Soviet Union and in Poland. A significant illustration of the measures actually applied occurs in the document which was sent in 1943 to the Defendant Rosenberg by the Reich Commissar for Eastern Territories, who wrote:

"It should be possible to avoid atrocities and to bury those who have been liquidated. To lock men, women, and children into barns and set fire to them does not appear to be a suitable method of combating bands, even if it is desired to exterminate the population. This method is not worthy of the German cause, and hurts our reputation severely."

The Tribunal has before it an affidavit of one Hermann Graebe, dated 10 November 1945, describing the immense mass murders which he witnessed. He was the manager and engineer in charge of the branch of the Solingen firm of Josef Jung in Spolbunow, Ukraine, from September 1941 to January 1944. He first of all described the attack upon the Jewish ghetto at Rowno:

"... Then the electric floodlights which had been erected all around the ghetto were switched on. SS and militia details of four to six members entered or at least tried to enter the houses. Where the doors and windows were closed, and the inhabitants did not open upon the knocking, the SS men and militia broke the windows, forced the doors with beams and crowbars, and entered the dwelling. The owners were driven on to the street just as they were, regardless of whether they were dressed or whether they had been in bed. ... Car after car was filled. Over it hung the screaming of women and children, the cracking of whips and rifle shots."

Graebe then described how a mass execution at Dubno, which he witnessed on 5 October 1942, was carried out:

". . . . Now we heard shots in quick succession from behind one of the earth mounds. The people who had got off the trucks, men, women, and children of all ages, had to undress upon the orders of an SS man, who carried a riding or dog whip . . . . Without screaming or crying, these people undressed, stood around by families, kissed each other, said farewells, and waited for the command of another SS man, who stood near the excavation, also with a whip in his hand. ... At that moment the SS man at the excavation called

something to his comrade. The latter counted off about 20 persons, and instructed them to walk behind the earth mound. . . . . I walked around the mound and stood in front of a tremendous grave; closely pressed together, the people were lying on top of each other so that only their heads were visible. The excavation was already two-thirds full; I estimated that it contained about a thousand people. ... Now already the next group approached, descended into the excavation, lined themselves up against the previous victims and were shot."

The foregoing crimes against the civilian population are sufficiently appalling, and yet the evidence shows that at any rate in the East, the mass murders and cruelties were not committed solely for the purpose of stamping out opposition or resistance to the German occupying forces. In Poland and the Soviet Union these crimes were part of a plan to get rid of whole native populations by expulsion and annihilation, in order that their territory could be used for colonization by Germans. Hitler had written in *Mein Kampf* on these lines, and the plan was clearly stated by Himmler in July 1942, when he wrote: "It is not our task to Germanize the East in the old sense, that is to teach the people there the German language and the German law, but to see to it that only people of purely Germanic blood live in the East."

In August 1942 the policy for the Eastern Territories as laid down by Bormann was summarized by a subordinate of Rosenberg as follows:

"The Slavs are to work for us. In so far as we do not need them, they may die. Therefore, compulsory vaccination and Germanic health services are superfluous. The fertility of the Slavs is undesirable."

It was Himmler again who stated in October 1943:

"What happens to a Russian, a Czech, does not interest me in the slightest. What the nations can offer in the way of good blood of our type, we will take. If necessary, by kidnapping their children and raising them here with us. Whether nations live in prosperity or starve to death interests me only in so far as we need them as slaves for our Kultur, otherwise it is of no interest to me."

In Poland the intelligentsia had been marked down for extermination as early as September 1939, and in May 1940 the Defendant Frank wrote in his diary of "taking advantage of the focussing of world interest on the Western Front, by wholesale liquidation of thousands of Poles, first leading representatives of the Polish intelligentsia." Earlier, Frank had been directed to reduce the "entire Polish economy to an absolute minimum necessary for bare

existence. The Poles shall be the slaves of the Greater German World Empire." In January 1940 he recorded in his diary that "cheap labor must be removed from the General Government by hundreds of thousands. This will hamper the native biological propagation." So successfully did the Germans carry out this policy in Poland that by the end of the war one third of the population had been killed, and the whole of the country devastated.

It was the same story in the occupied area of the Soviet Union. At the time of the launching of the German attack in June 1941 Rosenberg told his collaborators:

> "The object of feeding the German People stands this year without a doubt at the top of the list of Germany's claims on the East, and there the southern territories and the northern Caucasus will have to serve as a balance for the feeding of the German People . . . . A very extensive evacuation will be necessary, without any doubt, and it is sure that the future will hold very hard years in store for the Russians."

Three or four weeks later Hitler discussed with Rosenberg, Göring, Keitel, and others his plan for the exploitation of the Soviet population and territory, which included among other things the evacuation of the inhabitants of the Crimea and its settlement by Germans.

A somewhat similar fate was planned for Czechoslovakia by the Defendant Von Neurath, in August 1940; the intelligentsia were to be "expelled", but the rest of the population was to be Germanized rather than expelled or exterminated, since there was a shortage of Germans to replace them.

In the West the population of Alsace were the victims of a German "expulsion action." Between July and December 1940, 105,000 Alsatians were either deported from their homes or prevented from returning to them. A captured German report dated 7 August 1942 with regard to Alsace states that: "The problem of race will be given first consideration, and this in such a manner that persons of racial value will be deported to Germany proper, and racially inferior persons to France."

Pillage of Public and Private Property

Article 49 of the Hague Convention provides that an occupying Power may levy a contribution of money from the occupied territory to pay for the needs of the army of occupation, and for the administration of the territory in question. Article 52 of the Hague Convention provides that an occupying Power may make requisitions in kind only for the needs of the army of occupation, and that these requisitions shall be in proportion to the resources of

the country. These articles, together with Article 48, dealing with the expenditure of money collected in taxes, and Articles 53, 55, and 56, dealing with public property, make it clear that under the rules of war, the economy of an occupied country can only be required to bear the expense of the occupation, and these should not be greater than the economy of the country can reasonably be expected to bear. Article 56 reads as follows:

> "The property of municipalities, of religious, charitable, educational, artistic, and scientific institutions, although belonging to the State, is to be accorded the same standing as private property. All pre-meditated seizure, destruction, or damage of such institutions, historical monuments, works of art and science, is prohibited and should be prosecuted."

The evidence in this case has established, however, that the territories occupied by Germany were exploited for the German war effort in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy. There was in truth a systematic "plunder of public or private property", which was criminal under Article 6 (b) of the Charter. The German occupation policy was clearly stated in a speech made by the Defendant Göring on 6 August 1942 to the various German authorities in charge of occupied territories:

> "God knows, you are not sent out there to work for the welfare of the people in your charge, but to get the utmost out of them, so that the German People can live. That is what I expect of your exertions. This everlasting concern about foreign people must cease now, once and for all. I have here before me reports on what you are expected to deliver. It is nothing at all, when I consider your territories. It makes no difference to me in this connection if you say that your people will starve."

The methods employed to exploit the resources of the occupied territories to the full varied from country to country. In some of the occupied countries in the East and the West, this exploitation was carried out within the framework of the existing economic structure. The local industries were put under German supervision, and the distribution of war materials was rigidly controlled. The industries thought to be of value to the German war effort were compelled to continue, and most of the rest were closed down altogether. Raw materials and the finnished products alike were confiscated for the needs of the German industry. As early as 19 October 1939 the Defendant Göring had issued a directive giving detailed instructions for the administration of the occupied territories; it provided:

"The task for the economic treatment of the various administrative regions is different, depending on whether the country is involved which will be incorporated politically into the German Reich, or whether we will deal with the Government-General, which in all probability will not be made a part of Germany. In the first mentioned territories, the... safeguarding of all their productive facilities and supplies must be aimed at, as well as a complete incorporation into the Greater German economic system, at the earliest possible time. On the other hand, there must be removed from the territories of the Government-General all raw materials, scrap materials, machines, etc., which are of use for the German war economy. Enterprises which are not absolutely necessary for the meager maintenance of the naked existence of the population must be transferred to Germany, unless such transfer would require an unreasonably long period of time, and would make it more practicable to exploit those enterprises by giving them German orders, to be executed at their present location."

As a consequence of this order, agricultural products, raw materials needed by German factories, machine tools, transportation equipment, other finished products, and even foreign securities and holdings of foreign exchange were all requisitioned and sent to Germany. These resources were requisitioned in a manner out of all proportion to the economic resources of those countries, and resulted in famine, inflation, and an active black market. At first the German occupation authorities attempted to suppress the black market, because it was a channel of distribution keeping local products out of German hands. When attempts at suppression failed, a German purchasing agency was organized to make purchases for Germany on the black market, thus carrying out the assurance made by the Defendant Göring that it was "necessary that all should know that if there is to be famine anywhere, it shall in no case be in Germany."

In many of the occupied countries of the East and the West, the authorities maintained the pretense of paying for all the property which they seized. This elaborate pretense of payment merely disguised the fact that the goods sent to Germany from these occupied countries were paid for by the occupied countries themselves, either by the device of excessive occupation costs or by forced loans in return for a credit balance on a "clearing account" which was an account merely in name.

In most of the occupied countries of the East even this pretense of legality was not maintained; economic exploitation became deliberate plunder. This policy was first put into effect in the

administration of the Government General in Poland. The main exploitation of the raw materials in the East was centered on agricultural products and very large amounts of food were shipped from the Government General to Germany.

The evidence of the widespread starvation among the Polish People in the Government General indicates the ruthlessness and the severity with which the policy of exploitation was carried out.

The occupation of the territories of the U.S.S.R. was characterized by premeditated and systematic looting. Before the attack on the U.S.S.R. an economic staff— Oldenburg — was organized to ensure the most efficient exploitation of Soviet territories. The German Armies were to be fed out of Soviet territory, even if "many millions of people will be starved to death." An OKW directive issued before the attack said: "To obtain the greatest possible quantity of food and crude oil for Germany — that is the main economic purpose of the campaign."

Similarly, a declaration by the Defendant Rosenberg of 20 June 1941 had advocated the use of the produce from Southern Russia and of the Northern Caucasus to feed the German People, saying:

> "We see absolutely no reason for any obligation on our part to feed also the Russian People with the products of that surplus territory. We know that this is a harsh necessity, bare of any feelings."

When the Soviet territory was occupied, this policy was put into effect; there was a large scale confiscation of agricultural supplies, with complete disregard of the needs of the inhabitants of the occupied territory.

In addition to the seizure of raw materials and manufactured articles, a wholesale seizure was made of art treasures, furniture, textiles, and similar articles in all the invaded countries.

The Defendant Rosenberg was designated by Hitler on 29 January 1940 Head of the Center for National Socialist Ideological and Educational Research, and thereafter the organization known as the "Einsatzstab Rosenberg" conducted its operations on a very great scale. Originally designed for the establishment of a research library, it developed into a project for the seizure of cultural treasures. On 1 March 1942 Hitler issued a further decree, authorizing Rosenberg to search libraries, lodges, and cultural establishments, to seize material from these establishments, as well as cultural treasures owned by Jews. Similar directions were given where the ownership could not be clearly established. The decree directed the co-operation of the Wehrmacht High Command, and indicated that Rosenberg's activities in the West were to be conducted in his capacity as Reichsleiter, and in the East in his capacity as Reichsminister. Thereafter, Rosenberg's activities were extended to the occupied countries. The

report of Robert Scholz, Chief of the special staff for Pictorial Art, stated: "During the period from March 1941 to July 1944 the special staff for Pictorial Art brought into the Reich 29 large shipments, including 137 freight cars with 4,174 cases of art works."

The report of Scholz refers to 25 portfolios of pictures of the most valuable works of the art collection seized in the West, which portfolios were presented to the Führer. Thirty-nine volumes, prepared by the Einsatzstab, contained photographs of paintings, textiles, furniture, candelabra, and numerous other objects of art, and illustrated the value and magnitude of the collection which had been made. In many of the occupied countries private collections were robbed, libraries were plundered, and private houses were pillaged.

Museums, palaces, and libraries in the occupied territories of the U.S.S.R. were systematically looted. Rosenberg's Einsatzstab, Von Ribbentrop's special "Battalion", the Reichscommissars and representatives of the Military Command seized objects of cultural and historical value belonging to the People of the Soviet Union, which were sent to Germany. Thus the Reichscommissar of the Ukraine removed paintings and objects of art from Kiev and Kharkov and sent them to East Prussia. Rare volumes and objects of art from the palaces of Peterhof, Tsarskoye Selo, and Pavlovsk were shipped to Germany. In his letter to Rosenberg of 3 October 1941 Reichscommissar Kube stated that the value of the objects of art taken from Bielorussia ran into millions of rubles. The scale of this plundering can also be seen in the letter sent from Rosenberg's department to Von Milde-Schreden in which it is stated that during the month of October 1943 alone, about 40 box-cars loaded with objects of cultural value were transported to the Reich.

With regard to the suggestion that the purpose of the seizure of art treasures was protective and meant for their preservation, it is necessary to say a few words. On 1 December 1939 Himmler, as the Reich Commissioner for the "strengthening of Germanism", issued a decree to the regional officers of the secret police in the annexed eastern territories, and to the commanders of the security service in Radom, Warsaw, and Lublin. This decree contained administrative directions for carrying out the art seizure program, and in Clause 1 it is stated:

> To strengthen Germanism in the defense of the Reich, all articles mentioned in Section 2 of this decree are hereby confiscated . . . . They are confiscated for the benefit of the German Reich, and are at the disposal of the Reich Commissioner for the strengthening of Germanism."

The intention to enrich Germany by the seizures, rather than to protect the seized objects, is indicated in an undated report by Dr. Hans Posse, director of the Dresden State Picture Gallery:

"I was able to gain some knowledge on the public and private collections, as well as clerical property, in Cracow and Warsaw. It is true that we cannot hope too much to enrich ourselves from the acquisition of great art works of paintings and sculptures, with the exception of the Veit-Stoß altar, and the plates of Hans von Kulnback in the Church of Maria in Cracow ... and several other works from the National Museum in Warsaw."

Slave Labor Policy

Article 6 (b) of the Charter provides that the "ill-treatment or deportation to slave labor or for any other purpose, of civilian population of or in occupied territory" shall be a War Crime. The laws relating to forced labor by the inhabitants of occupied territories are found in Article 52 of the Hague Convention, which provides:

"Requisition in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country."

The policy of the German occupation authorities was in flagrant violation of the terms of this convention. Some idea of this policy may be gathered from the statement made by Hitler in a speech on 9 November 1941:

"The territory which now works for us contains more than 250,000,000 men, but the territory which works indirectly for us includes now more than 350,000,000. In the measure in which it concerns German territory, the domain which we have taken under our administration, it is not doubtful that we shall succeed in harnessing the very last man to this work."

The actual results achieved were not so complete as this, but the German occupation authorities did succeed in forcing many of the inhabitants of the occupied territories to work for the German war effort, and in deporting at least 5,000,000 persons to Germany to serve German industry and agriculture.

In the early stages of the war, manpower in the occupied territories was under the control of various occupation authorities, and the procedure varied from country to country. In all the occupied territories compulsory labor service was promptly instituted. Inhabitants of the occupied countries were conscripted and compelled to work in local occupations, to assist the German war economy. In many cases they were forced to work on German fortifications and military installations. As local supplies of raw materials and local

industrial capacity became inadequate to meet the German requirements, the system of deporting laborers to Germany was put into force. By the middle of April 1940 compulsory deportation of laborers to Germany had been ordered in the Government General; and a similar procedure was followed in other eastern territories as they were occupied. A description of this compulsory deportation from Poland was given by Himmler. In an address to SS officers he recalled how in weather 40 degrees below zero they had to "haul away thousands, tens of thousands, hundreds of thousands". On a later occasion Himmler stated:

> "Whether ten thousand Russian females fall down from exhaustion while digging an anti-tank ditch interests me only insofar as the anti-tank ditch for Germany is finished . . . . We must realize that we have 6-7 million foreigners in Germany . . . . They are none of them dangerous so long as we take severe measures at the merest trifles."

During the first two years of the German occupation of France, Belgium, Holland, and Norway, however, an attempt was made to obtain the necessary workers on a voluntary basis. How unsuccessful this was may be seen from the report of the meeting of the Central Planning Board on 1 March 1944. The representative of the Defendant Speer, one Koehrl, speaking of the situation in France, said: "During all this time a great number of Frenchmen was recruited, and voluntarily went to Germany."

He was interrupted by the Defendant Sauckel: "Not only voluntary, some were recruited forcibly."

To which Koehrl replied: "The calling up started after the recruitment no longer yielded enough results."

To which the Defendant Sauckel replied: "Out of the five million workers who arrived in Germany, not even 200,000 came voluntarily", and Koehrl rejoined: "Let us forget for the moment whether or not some slight pressure was used. Formally, at least, they were volunteers."

Committees were set up to encourage recruiting, and a vigorous propaganda campaign was begun to induce workers to volunteer for service in Germany. This propaganda campaign included, for example, the promise that a prisoner of war would be returned for every laborer who volunteered to go to Germany. In some cases it was supplemented by withdrawing the ration cards of laborers who refused to go to Germany, or by discharging them from their jobs and denying them unemployment benefit or an opportunity to work elsewhere. In some cases workers and their families were threatened with reprisals by the police if they refused to go to Germany. It was on 21 March 1942 that the Defendant Sauckel was appointed Plenipotentiary-General for the Utilization of Labor, with authority over

"all available manpower, including that of workers recruited abroad, and of prisoners of war".

The Defendant Sauckel was directly under the Defendant Göring as Commissioner of the Four Year Plan, and a Göring decree of 27 March 1942 transferred all his authority over manpower to Sauckel. Sauckel's instructions, too, were that foreign labor should be recruited on a voluntary basis, but also provided that "where, however, in the occupied territories, the appeal for volunteers does not suffice, obligatory service and drafting must under all circumstances be resorted to." Rules requiring labor service in Germany were published in all the occupied territories. The number of laborers to be supplied was fixed by Sauckel, and the local authorities were instructed to meet these requirements by conscription if necessary. That conscription was the rule rather than the exception is shown by the statement of Sauckel already quoted, on 1 March 1944.

The Defendant Sauckel frequently asserted that the workers belonging to foreign nations were treated humanely, and that the conditions in which they lived were good. But whatever the intention of Sauckel may have been, and however much he may have desired that foreign laborers should be treated humanely, the evidence before the Tribunal establishes the fact that the conscription of labor was accomplished in many cases by drastic and violent methods. The "mistakes and blunders" were on a very great scale. Man-hunts took place in the streets, at motion picture houses, even at churches and at night in private houses. Houses were sometimes burnt down, and the families taken as hostages, practices which were described by the Defendant Rosenberg as having their origin "in the blackest periods of the slave trade". The methods used in obtaining forced labor from the Ukraine appear from an order issued to SD officers which stated:

> "It will not be possible always to refrain from using force .... When searching villages, especially when it has been necessary to burn down a village, the whole population will be put at the disposal of the Commissioner by force .... As a rule no more children will be shot .... If we limit harsh measures through the above orders for the time being, it is only done for the following reason .... The most important thing is the recruitment of workers."

The resources and needs of the occupied countries were completely disregarded in carrying out this policy. The treatment of the laborers was governed by Sauckel's instructions of 20 April 1942 to the effect that: "All the men must be fed, sheltered and treated in such a way as to exploit them to the highest possible extent, at the lowest conceivable degree of expenditure."

The evidence showed that workers destined for the Reich were sent under guard to Germany, often packed in trains without adequate heat, food, clothing, or sanitary facilities. The evidence further showed that the treatment of the laborers in Germany in many cases was brutal and degrading. The evidence relating to the Krupp Works at Essen showed that punishments of the most cruel kind were inflicted on the workers. Theoretically at least the workers were paid, housed, and fed by the DAF, and even permitted to transfer their savings and to send mail and parcels back to their native country; but restrictive regulations took a proportion of the pay; the camps in which they were housed were unsanitary; and the food was very often less than the minimum necessary to give the workers strength to do their jobs. In the case of Poles employed on farms in Germany, the employers were given authority to inflict corporal punishment and were ordered, if possible, to house them in stables, not in their own homes. They were subject to constant supervision by the Gestapo and the SS, and if they attempted to leave their jobs they were sent to correction camps or concentration camps. The concentration camps were also used to increase the supply of labor. Concentration camp commanders were ordered to work their prisoners to the limits of their physical power. During the latter stages of the war the concentration camps were so productive in certain types of work that the Gestapo was actually instructed to arrest certain classes of laborers so that they could be used in this way. Allied prisoners of war were also regarded as a possible source of labor. Pressure was exercised on non-commissioned officers to force them to consent to work, by transferring to disciplinary camps those who did not consent. Many of the prisoners of war were assigned to work directly related to military operations, in violation of Article 31 of the Geneva Convention. They were put to work in munition factories and even made to load bombers, to carry ammunition and to dig trenches, often under the most hazardous conditions. This condition applied particularly to the Soviet prisoners of war. On 16 February 1943, at a meeting of the Central Planning Board, at which the Defendants Sauckel and Speer were present, Milch said:

> "We have made a request for an order that a certain percentage of men in the Ack-Ack artillery must be Russians; 50,000 will be taken altogether. Thirty thousand are already employed as gunners. This is an amusing thing, that Russians must work the guns."

And on 4 October 1943, at Posen, Himmler, speaking of the Russian prisoners, captured in the early days of the war, said:

> "As that time we did not value the mass of humanity as we value it today, as raw material, as labor. What, after all,

thinking in terms of generations, is not to be regretted, but is now deplorable by reason of the loss of labor, is that the prisoners died in tens and hundreds of thousands of exhaustion and hunger."

The general policy underlying the mobilization of slave labor was stated by Sauckel on 20 April 1942. He said:

"The aim of this new gigantic labor mobilization is to use all the rich and tremendous sources conquered and secured for us by our fighting Armed Forces under the leadership of Adolf Hitler, for the armament of the Armed Forces, and also for the nutrition of the Homeland. The raw materials, as well as the fertility of the conquered territories and their human labor power, are to be used completely and conscientiously to the profit of Germany and her allies . . . . All prisoners of war from the territories of the West, as well as the East, actually in Germany, must be completely incorporated into the German armament and nutrition industries . . . Consequently it is an immediate necessity to use the human reserves of the conquered Soviet territory to the fullest extent. Should we not succeed in obtaining the necessary amount of labor on a voluntary basis, we must immediately institute conscription or forced labor. . . . The complete employment of all prisoners of war, as well as the use of a gigantic number of new foreign civilian workers, men and women, has become an indisputable necessity for the solution of the mobilization of the labor program in this war."

Reference should also be made to the policy which was in existence in Germany by the summer of 1940, under which all aged, insane, and incurable people, "useless eaters," were transferred to special institutions where they were killed, and their relatives informed that they had died from natural causes. The victims were not confined to German citizens, but included foreign laborers, who were no longer able to work, and were therefore useless to the German war machine. It has been estimated that at least some 275,000 people were killed in this manner in nursing homes, hospitals and asylums, which were under the jurisdiction of the Defendant Frick, in his capacity as Minister of the Interior. How many foreign workers were included in this total it has been quite impossible to determine.

Persecution of the Jews

The persecution of the Jews at the hands of the Nazi Government has been proved in the greatest detail before the Tribunal. It is a record of consistent and systematic inhumanity on the greatest scale. Ohlendorf, Chief of Amt III in the RSHA from 1939 to 1943, and who was in command of one of the Einsatz groups in the campaign

against the Soviet Union testified as to the methods employed in the extermination of the Jews. He said that he employed firing squads to shoot the victims in order to lessen the sense of individual guilt on the part of his men; and the 90,000 men, women, and children who were murdered in one year by his particular group were mostly Jews.

When the witness Bach Zelewski was asked how Ohlendorf could admit the murder of 90,000 people, he replied: "I am of the opinion that when, for years, for decades, the doctrine is preached that the Slav race is an inferior race, and Jews not even human, then such an outcome is inevitable."

But the Defendant Frank spoke the final words of this chapter of Nazi history when he testified in this Court:

> "We have fought against Jewry: we have fought against it for years: and we have allowed ourselves to make utterances and my own diary has become a witness against me in this connection — utterances which are terrible . . . . A thousand years will pass and this guilt of Germany will still not be erased."

The anti-Jewish policy was formulated in Point 4 of the Party Program which declared "Only a member of the race can be a citizen. A member of the race can only be one who is of German blood, without consideration of creed. Consequently, no Jew can be a member of the race." Other points of the program declared that Jews should be treated as foreigners, that they should not be permitted to hold public office, that they should be expelled from the Reich if it were impossible to nourish the entire population of the State, that they should be denied any further immigration into Germany, and that they should be prohibited from publishing German newspapers. The Nazi Party preached these doctrines throughout its history. *Der Stürmer* and other publications were allowed to disseminate hatred of the Jews, and in the speeches and public declarations of the Nazi leaders, the Jews were held up to public ridicule and contempt.

With the seizure of power, the persecution of the Jews was intensified. A series of discriminatory laws was passed, which limited the offices and professions permitted to Jews; and restrictions were placed on their family life and their rights of citizenship. By the autumn of 1938, the Nazi policy towards the Jews had reached the stage where it was directed towards the complete exclusion of Jews from German life. Pogroms were organized, which included the burning and demolishing of synagogues, the looting of Jewish businesses, and the arrest of prominent Jewish business men. A collective fine of 1 billion marks was imposed on the Jews, the seizure of Jewish assets was authorized,

and the movement of Jews was restricted by regulations to certain specified districts and hours. The creation of ghettos was carried out on an extensive scale, and by an order of the Security Police Jews were compelled to wear a yellow star to be worn on the breast and back.

It was contended for the Prosecution that certain aspects of this anti-Semitic policy were connected with the plans for aggressive war. The violent measures taken against the Jews in November 1938 were nominally in retaliation for the killing of an official of the German Embassy in Paris. But the decision to seize Austria and Czechoslovakia had been made a year before. The imposition of a fine of one billion marks was made, and the confiscation of the financial holdings of the Jews was decreed, at a time when German armament expenditure had put the German treasury in difficulties, and when the reduction of expenditure on armaments was being considered. These steps were taken, moreover, with the approval of the Defendant Göring, who had been given responsibility for economic matters of this kind, and who was the strongest advocate of an extensive rearmament program notwithstanding the financial difficulties.

It was further said that the connection of the anti-Semitic policy with aggressive war was not limited to economic matters. The German Foreign Office circular, in an article of 25 January 1939, entitled "Jewish Question as a Factor in German Foreign Policy in the Year 1938", described the new phase in the Nazi anti-Semitic policy in these words:

> "It is certainly no coincidence that the fateful year 1938 has brought nearer the solution of the Jewish question simultaneously with the realization of the idea of Greater Germany, since the Jewish policy was both the basis and consequence of the year 1938. The advance made by Jewish influence and the destructive Jewish spirit in politics, economy, and culture, paralyzed the power and the will of the German People to rise again, more perhaps even than the power policy opposition of the former enemy Allied Powers of the first World War. The healing of this sickness among the people was therefore certainly one of the most important requirements for exerting the force which, in the year 1938, resulted in the joining together of Greater Germany in defiance of the world."

The Nazi persecution of Jews in Germany before the war, severe and repressive as it was, cannot compare, however, with the policy pursued during the war in the occupied territories. Originally the policy was similar to that which had been in force inside Germany. Jews were required to register, were forced to live in ghettos, to

wear the yellow star, and were used as slave laborers. In the summer of 1941, however, plans were made for the "final solution" of the Jewish question in Europe. This "final solution" meant the extermination of the Jews, which early in 1939 Hitler had threatened would be one of the consequences of an outbreak of war, and a special section in the Gestapo under Adolf Eichmann, as head of Section B 4 of the Gestapo, was formed to carry out the policy.

The plan for exterminating the Jews was developed shortly after the attack on the Soviet Union. Einsatzgruppen of the Security Police and SD, formed for the purpose of breaking the resistance of the population of the areas lying behind the German armies in the East, were given the duty of exterminating the Jews in those areas. The effectiveness of the work of the Einsatzgruppen is shown by the fact that in February 1942 Heydrich was able to report that Estonia had already been cleared of Jews and that in Riga the number of Jews had been reduced from 29,500 to 2.500 Altogether the Einsatzgruppen operating in the occupied Baltic States killed over 135,000 Jews in three months.

Nor did these special units operate completely independently of the German Armed Forces. There is clear evidence that leaders of the Einsatzgruppen obtained the co-operation of Army commanders. In one case the relations between an Einsatzgruppe and the military authorities was described at the time as being "very close, almost cordial"; in another case the smoothness of an Einsatzcommando's operation was attributed to the "understanding for this procedure" shown by the Army authorities.

Units of the Security Police and SD in the occupied territories of the East, which were under civil administration, were given a similar task. The planned and systematic character of the Jewish persecutions is best illustrated by the original report of the SS Brigadier-General Stroop, who was in charge of the destruction of the ghetto in Warsaw, which took place in 1943. The Tribunal received in evidence that report, illustrated with photographs, bearing on its title page: "The Jewish Ghetto in Warsaw No Longer Exists." The volume records a series of reports sent by Stroop to the Higher SS and Police Führer East. In April and May of 1943, in one report, Stroop wrote:

> "The resistance put up by the Jews and bandits could only be suppressed by energetic actions of our troops day and night. The Reichsführer SS ordered therefore on 23 April 1943 the cleaning out of the ghetto with utter ruthlessness and merciless tenacity. I therefore decided to destroy and burn down the entire ghetto, without regard to the armament factories. These factories were systematically dismantled and then burnt. Jews usually left their hideouts, but

frequently remained in the burning buildings, and jumped out of the windows only when the heat became unbearable. They then tried to crawl with broken bones across the street into buildings which were not afire ... Life in the sewers was not pleasant after the first week. Many times we could hear loud voices in the sewers... Tear gas bombs were thrown into the manholes, and the Jews driven out of the sewers and captured. Countless numbers of Jews were liquidated in sewers and bunkers through blasting. The longer the resistance continued, the tougher became the members of the Waffen SS, Police and Wehrmacht, who always discharged their duties in an exemplary manner.

Stroop recorded that his action at Warsaw eliminated "a proved total of 56,065 people. To that we have to add the number of those killed through blasting, fire, etc., which cannot be counted." Grim evidence of mass murders of Jews was also presented to the Tribunal in cinematograph films depicting the communal graves of hundreds of victims which were subsequently discovered by the Allies.

These atrocities were all part and parcel of the policy inaugurated in 1941, and it is not surprising that there should be evidence that one or two German officials entered vain protests against the brutal manner in which the killings were carried out. But the methods employed never conformed to a single pattern. The massacres of Rowno and Dubno, of which the German engineer Graebe spoke, were examples of one method; the systematic extermination of Jews in concentration camps, was another. Part of the "final solution" was the gathering of Jews from all German-occupied Europe in concentration camps. Their physical condition was the test of life or death. All who were fit to work were used as slave laborers in the concentration camps; all who were not fit to work were destroyed in gas chambers and their bodies burnt. Certain concentration camps such as Treblinka and Auschwitz were set aside for this main purpose. With regard to Auschwitz, the Tribunal heard the evidence of Höss, the commandant of the camp from 1 May 1940 to 1 December 1943. He estimated that in the camp of Auschwitz alone in that time 2,500,000 persons were exterminated, and that a further 500,000 died from disease and starvation. Höss described the screening for extermination by stating in evidence:

"We had two SS doctors on duty at Auschwitz to examine the incoming transports of prisoners. The prisoners would be marched by one of the doctors who would make spot decisions as they walked by. Those who were fit for work were sent into the camp. Others were sent immediately to the extermination plants. Children of tender years were invariably exterminated since by reason of their youth they

were unable to work. Still another improvement we made over Treblinka was that at Treblinka the victims almost always knew that they were to be exterminated and at Auschwitz we endeavored to fool the victims into thinking that they were to go through a delousing process. Of course, frequently they realized our true intentions and we sometimes had riots and difficulties due to that fact. Very frequently women would hide their children under their clothes, but of course when we found them we would send the children in to be exterminated."

He described the actual killing by stating:

"It took from three to fifteen minutes to kill the people in the death chamber, depending upon climatic conditions. We knew when the people were dead because their screaming stopped. We usually waited about one half-hour before we opened the doors and removed the bodies. After the bodies were removed our special commandos took off the rings and extracted the gold from the teeth of the corpses."

Beating, starvation, torture, and killing were general. The inmates were subjected to cruel experiments at Dachau in August 1942, victims were immersed in cold water until their body temperature was reduced to 28° Centigrade, when they died immediately. Other experiments included high altitude experiments in pressure chambers, experiments to determine how long human beings could survive in freezing water, experiments with poison bullets, experiments with contagious diseases, and experiments dealing with sterilization of men and women by X-rays and other methods.

Evidence was given of the treatment of the inmates before and after their extermination. There was testimony that the hair of women victims was cut off before they were killed, and shipped to Germany, there to be used in the manufacture of mattresses. The clothes, money, and valuables of the inmates were also salvaged and sent to the appropriate agencies for disposition. After the extermination the gold teeth and fillings were taken from the heads of the corpses and sent to the Reichsbank.

After cremation the ashes were used for fertilizer, and in some instances attempts were made to utilize the fat from the bodies of the victims in the commercial manufacture of soap. Special groups traveled through Europe to find Jews and subject them to the "final solution". German missions were sent to such satellite countries as Hungary and Bulgaria, to arrange for the shipment of Jews to extermination camps and it is known that by the end of 1944, 400,000 Jews from Hungary had been murdered at Auschwitz. Evidence has also been given of the evacuation of 110,000 Jews from part of Rumania for "liquidation". Adolf Eichmann, who had been put in charge of this program by Hitler, has estimated that the

policy pursued resulted in the killing of 6 million Jews, of which 4 million were killed in the extermination institutions.

The Law Relating to War Crimes and Crimes against Humanity

Article 6 of the Charter provides:

> "(b) War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity;
>
> "(c) Crimes against Humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial, or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated."

As heretofore stated, the Charter does not define as a separate crime any conspiracy except the one set out in Article 6 (a), dealing with Crimes against Peace.

The Tribunal is of course bound by the Charter, in the definition which it gives both of War Crimes and Crimes against Humanity. With respect to War Crimes, however, as has already been pointed out, the crimes defined by Article 6, Section (b), of the Charter were already recognized as War Crimes under international law. They were covered by Articles 46, 50, 52, and 56 of the Hague Convention of 1907, and Articles 2, 3, 4, 46, and 51 of the Geneva Convention of 1929. That violation of these provisions constituted crimes for which the guilty individuals were punishable is too well settled to admit of argument.

But it is argued that the Hague Convention does not apply in this case, because of the "general participation" clause in Article 2 of the Hague Convention of 1907. That clause provided:

> "The provisions contained in the regulations (Rules of Land Warfare) referred to in Article I as well as in the present Convention do not apply except between contracting powers, and then only if all the belligerents are parties to the Convention."

Several of the belligerents in the recent war were not parties to this Convention.

In the opinion of the Tribunal it is not necessary to decide this question. The rules of land warfare expressed in the Convention undoubtedly represented an advance over existing international

law at the time of their adoption. But the convention expressly stated that it was an attempt "to revise the general laws and customs of war", which it thus recognized to be then existing, but by 1939 these rules laid down in the Convention were recognized by all civilized nations, and were regarded as being declaratory of the laws and customs of war which are referred to in Article 6 (b) of the Charter.

A further submission was made that Germany was no longer bound by the rules of land warfare in many of the territories occupied during the war, because Germany had completely subjugated those countries and incorporated them into the German Reich, a fact which gave Germany authority to deal with the occupied countries as though they were part of Germany. In the view of the Tribunal it is unnecessary in this case to decide whether this doctrine of subjugation, dependent as it is upon military conquest, has any application where the subjugation is the result of the crime of aggressive war. The doctrine was never considered to be applicable so long as there was an army in the field attempting to restore the occupied countries to their true owners, and in this case, therefore, the doctrine could not apply to any territories occupied after 1 September 1939. As to the War Crimes committed in Bohemia and Moravia, it is a sufficient answer that these territories were never added to the Reich, but a mere protectorate was established over them.

With regard to Crimes against Humanity there is no doubt whatever that political opponents were murdered in Germany before the war, and that many of them were kept in concentration camps in circumstances of great horror and cruelty. The policy of terror was certainly carried out on a vast scale, and in many cases was organized and systematic. The policy of persecution, repression, and murder of civilians in Germany before the war of 1939, who were likely to be hostile to the Government, was most ruthlessly carried out. The persecution of Jews during the same period is established beyond all doubt. To constitute Crimes against Humanity, the acts relied on before the outbreak of war must have been in execution of, or in connection with, any crime within the jurisdiction of the Tribunal. The Tribunal is of the opinion that revolting and horrible as many of these crimes were, it has not been satisfactorily proved that they were done in execution of, or in connection with, any such crime. The Tribunal therefore cannot make a general declaration that the acts before 1939 were Crimes against Humanity within the meaning of the Charter, but from the beginning of the war in 1939 War Crimes were committed on a vast scale, which were also Crimes against Humanity; and insofar as the inhumane acts charged in the Indictment, and committed after the beginning of the war, did not constitute War Crimes, they were all committed in execution of, or

in connection with, the aggressive war, and therefore constituted Crimes against Humanity.

The Accused Organizations

Article 9 of the Charter provides:

"At the trial of any individual member of any group or organization the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organization of which the individual was a member was a criminal organization."

"After receipt of the Indictment the Tribunal shall give such notice as it thinks fit that the prosecution intends to ask the Tribunal to make such declaration and any member of the organization will be entitled to apply to the Tribunal for leave to be heard by the Tribunal upon the question of the criminal character of the organization. The Tribunal shall have power to allow or reject the application. If the application is allowed, the Tribunal may direct in what manner the applicants shall be represented and heard."

Article 10 of the Charter makes clear that the declaration of criminality against an accused organization is final, and cannot be challenged in any subsequent criminal proceeding against a member of the organization. Article 10 is as follows:

"In cases where a group or organization is declared criminal by the Tribunal, the competent national authority of any Signatory shall have the right to bring individuals to trial for membership therein before national, military or occupation courts. In any such case the criminal nature of the group or organization is considered proved and shall not be questioned."

The effect of the declaration of criminality by the Tribunal is well illustrated by Law Number 10 of the Control Council of Germany passed on 20 December 1945, which provides:

"Each of the following acts is recognized as a crime:

. . .

"(d) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal.

. . .

"(3) Any person found guilty of any of the crimes above mentioned may upon conviction be punished as shall be determined by the Tribunal to be just. Such punishment may consist of one or more of the following:

(a) Death.

(b) Imprisonment for life or a term of years, with or without hard labor.

(c) Fine, and imprisonment with or without hard labor, in lieu thereof."

In effect, therefore, a member of an organization which the Tribunal has declared to be criminal may be subsequently convicted of the crime of membership and be punished for that crime by death. This is not to assume that international or military courts which will try these individuals will not exercise appropriate standards of justice. This is a far reaching and novel procedure. Its application, unless properly safeguarded, may produce great injustice.

Article 9, it should be noted, uses the words "The Tribunal may declare", so that the Tribunal is vested with discretion as to whether it will declare any organization criminal. This discretion is a judicial one and does not permit arbitrary action, but should be exercised in accordance with well-settled legal principles, one of the most important of which is that criminal guilt is personal, and that mass punishments should be avoided. If satisfied of the criminal guilt of any organization or group, this Tribunal should not hesitate to declare it to be criminal because the theory of "group criminality" is new, or because it might be unjustly applied by some subsequent tribunals. On the other hand, the Tribunal should make such declaration of criminality so far as possible in a manner to insure that innocent persons will not be punished.

A criminal organization is analogous to a criminal conspiracy in that the essence of both is cooperation for criminal purposes. There must be a group bound together and organized for a common purpose. The group must be formed or used in connection with the commission of crimes denounced by the Charter. Since the declaration with respect to the organizations and groups will, as has been pointed out, fix the criminality of its members, that definition should exclude persons who had no knowledge of the criminal purposes or acts of the organization and those who were drafted by the State for membership, unless they were personally implicated in the commission of acts declared criminal by Article 6 of the Charter as members of the organization. Membership alone is not enough to come within the scope of these declarations.

Since declarations of criminality which the Tribunal makes will be used by other courts in the trial of persons on account of their membership in the organizations found to be criminal, the Tribunal feels it appropriate to make the following recommendations:

1. That so far as possible throughout the four zones of occupation in Germany the classifications, sanctions, and penalties be standardized. Uniformity of treatment so far as practical should be a basic principle. This does not, of course, mean that discretion in

sentencing should not be vested in the court; but the discretion should be within fixed limits appropriate to the nature of the crime.

2. Law No. 10, to which reference has already been made, leaves punishment entirely in the discretion of the trial court even to the extent of inflicting the death penalty.

The De-Nazification Law of 5 March 1946, however, passed for Bavaria, Greater-Hesse, and Württemberg-Baden, provides definite sentences for punishment in each type of offense. The Tribunal recommends that in no case should punishment imposed under Law No. 10 upon any members of an organization or group declared by the Tribunal to be criminal exceed the punishment fixed by the De-Nazification Law. No person should be punished under both laws.

3. The Tribunal recommends to the Control Council that Law No. 10 be amended to prescribe limitations on the punishment which may be imposed for membership in a criminal group or organization so that such punishment shall not exceed the punishment prescribed by the De-Nazification Law.

The Indictment asks that the Tribunal declare to be criminal the following organizations: The Leadership Corps of the Nazi Party; the Gestapo; the SD; the SS; the SA; the Reich Cabinet, and the General Staff and High Command of the German Armed Forces.

THE LEADERSHIP CORPS OF THE NAZI PARTY

Structure and Component Parts: The Indictment has named the Leadership Corps of the Nazi Party as a group or organization which should be declared criminal. The Leadership Corps of the Nazi Party consisted, in effect, of the official organization of the Nazi Party, with Hitler as Führer at its head. The actual work of running the Leadership Corps was carried out by the Chief of the Party Chancellery (Hess, succeeded by Bormann) assisted by the Party Reich Directorate, or Reichsleitung, which was composed of the Reichsleiters, the heads of the functional organizations of the Party, as well as of the heads of the various main departments and offices which were attached to the Party Reich Directorate. Under the Chief of the Party Chancellery were the Gauleiters, with territorial jurisdiction over the major administrative regions of the Party, the Gaue. The Gauleiters were assisted by a Party Gau Directorate or Gauleitung, similar in composition and in function to the Party Reich Directorate. Under the Gauleiters in the Party hierarchy were the Kreisleiters with territorial jurisdiction over a Kreis, usually consisting of a single county, and assisted by a Party Kreis Directorate, or Kreisleitung. The Kreisleiters were the lowest members of the Party hierarchy who were full-time paid employees. Directly under the Kreisleiters were the Ortsgruppenleiters, then the Zellenleiters

and then the Blockleiters. Directives and instructions were received from the Party Reich Directorate. The Gauleiters had the function of interpreting such orders and issuing them to lower formations. The Kreisleiters had a certain discretion in interpreting orders, but the Ortsgruppenleiters had not, but acted under definite instructions. Instructions were only issued in writing down as far as the Ortsgruppenleiters. The Block and Zellenleiters usually received instructions orally. Membership in the Leadership Corps at all levels was voluntary.

On 28 February 1946 the Prosecution excluded from the declaration asked for, all members of the staffs of the Ortsgruppenleiters and all assistants of the Zellenleiters and Blockleiters. The declaration sought against the Leadership Corps of the Nazi Party thus includes the Führer, the Reichsleitung, the Gauleiters and their staff officers, the Kreisleiters and their staff officers, the Ortsgruppenleiters, the Zellenleiters and the Blockleiters, a group estimated to contain at least 600,000 people.

Aims and Activities: The primary purpose of the Leadership Corps from its beginning was to assist the Nazis in obtaining and, after 30 January 1933, in retaining, control of the German State. The machinery of the Leadership Corps was used for the widespread dissemination of Nazi propaganda and to keep a detailed check on the political attitudes of the German People. In this activity the lower Political Leaders played a particularly important role. The Blockleiters were instructed by the Party Manual to report to the Ortsgruppenleiters all persons circulating damaging rumors or criticism of the regime. The Ortsgruppenleiters, on the basis of information supplied them by the Blockleiters and Zellenleiters, kept a card index of the people within their Ortsgruppe which recorded the factors which would be used in forming a judgment as to their political reliability.

The Leadership Corps was particularly active during plebiscites. All members of the Leadership Corps were active in getting out the vote and insuring the highest possible proportion of "yes" votes. Ortsgruppenleiters and Political Leaders of higher ranks often collaborated with the Gestapo and SD in taking steps to determine those who refused to vote or who voted "no", and in taking steps against them which went as far as arrest and detention in a concentration camp.

Criminal Activity: These steps, which relate merely to the consolidation of control of the Nazi Party, are not criminal under the view of the conspiracy to wage aggressive war which has previously been set forth. But the Leadership Corps was also used for similar steps in Austria and those parts of Czechoslovakia, Lithuania, Poland, France, Belgium, Luxembourg, and Yugoslavia which were incorp-

orated into the Reich and within the Gaue of the Nazi Party. In those territories the machinery of the Leadership Corps was used for their Germanization through the elimination of local customs and the detection and arrest of persons who opposed German occupation. This was criminal under Article 6 (b) of the Charter in those areas governed by the Hague Rules of Land Warfare and criminal under Article 6 (c) of the Charter as to the remainder.

The Leadership Corps played its part in the persecution of the Jews. It was involved in the economic and political discrimination against the Jews which was put into effect shortly after the Nazis came into power. The Gestapo and SD were instructed to coordinate with the Gauleiters and Kreisleiters the measures taken in the pogroms of 9 and 10 November 1938. The Leadership Corps was also used to prevent German public opinion from reacting against the measures taken against the Jews in the East. On 9 October 1942, a confidential information bulletin was sent to all Gauleiters and Kreisleiters entitled "Preparatory Measures for the Final Solution of the Jewish Question in Europe. Rumors concerning the Conditions of the Jews in the East." This bulletin stated that rumors were being started by returning soldiers concerning the conditions of Jews in the East which some Germans might not understand, and outlined in detail the official explanation to be given. This bulletin contained no explicit statement that the Jews were being exterminated, but it did indicate they were going to labor camps, and spoke of their complete segregation and elimination and the necessity of ruthless severity. Thus, even at its face value, it indicated the utilization of the machinery of the Leadership Corps to keep German public opinion from rebelling at a program which was stated to involve condemning the Jews of Europe to a lifetime of slavery. This information continued to be available to the Leadership Corps. The August 1944 edition of *Die Lage*, a publication which was circulated among the Political Leaders, described the deportation of 430,000 Jews from Hungary.

The Leadership Corps played an important part in the administration of the Slave Labor Program. A Sauckel decree dated 6 April 1942 appointed the Gauleiters as Plenipotentiary for Labor Mobilization for their Gaue with authority to coordinate all agencies dealing with labor questions in their Gaue, with specific authority over the employment of foreign workers, including their conditions of work, feeding, and housing. Under this authority the Gauleiters assumed control over the allocation of labor in their Gaue, including the forced laborers from foreign countries. In carrying out this task the Gauleiters used many Party offices within their Gaue, including subordinate Political Leaders. For example, Sauckel's decree of 8 September 1942, relating to the allocation for household labor of

400,000 women laborers brought in from the East, established a procedure under which applications filed for such workers should be passed on by the Kreisleiters, whose judgment was final.

Under Sauckel's directive the Leadership Corps was directly concerned with the treatment given foreign workers, and the Gauleiters were specifically instructed to prevent "politically inept factory heads" from giving "too much consideration to the care of Eastern workers." The type of question which was considered in their treatment included reports by the Kreisleiters on pregnancies among the female slave laborers, which would result in an abortion if the child's parentage would not meet the racial standards laid down by the SS and usually detention in a concentration camp for the female slave laborer. The evidence has established that under the supervision of the Leadership Corps, the industrial workers were housed in camps under atrocious sanitary conditions, worked long hours and were inadequately fed. Under similar supervision, the agricultural workers, who were somewhat better treated, were prohibited transportation, entertainment, and religious worship, and were worked without any time limit on their working hours and under regulations which gave the employer the right to inflict corporal punishment. The Political Leaders, at least down to the Ortsgruppenleiters, were responsible for this supervision. On 5 May 1943 a memorandum of Bormann instructing that mistreatment of slave laborers cease was distributed down to the Ortsgruppenleiters. Similarly on 10 November 1944 a Speer circular transmitted a Himmler directive which provided that all members of the Nazi Party, in accordance with instructions from the Kreisleiter, would be warned by the Ortsgruppenleiters of their duty to keep foreign workers under careful observation.

The Leadership Corps was directly concerned with the treatment of prisoners of war. On 5 November 1941 Bormann transmitted a directive down to the level of Kreisleiter instructing them to insure compliance by the Army with the recent directives of the Department of the Interior ordering that dead Russian prisoners of war should be buried wrapped in tar paper in a remote place without any ceremony or any decorations of their graves. On 25 November 1943 Bormann sent a circular instructing the Gauleiters to report any lenient treatment of prisoners of war. On 13 September 1944, Bormann sent a directive down to the level of Kreisleiter ordering that liaison be established between the Kreisleiters and the guards of the prisoners of war in order "better to assimilate the commitment of the prisoners of war to the political and economic demands". On 17 October 1944 an OKW directive instructed the officer in charge of the prisoners of war to confer with the Kreisleiters on questions of the productivity of labor. The use of prisoners of war, particularly

those from the East, was accompanied by a widespread violation of rules of land warfare. This evidence establishes that the Leadership Corps down to the level of Kreisleiter was a participant in this illegal treatment.

The machinery of the Leadership Corps was also utilized in attempts made to deprive Allied airmen of the protection to which they were entitled under the Geneva Convention. On 13 March 1940 a directive of Hess transmitted instructions through the Leadership Corps down to the Blockleiter for the guidance of the civilian population in case of the landing of enemy planes or parachutists, which stated that enemy parachutists were to be immediately arrested or "made harmless". On 30 May 1944 Bormann sent a circular letter to all Gau- and Kreisleiters reporting instances of lynchings of Allied low-level fliers in which no police action was taken. It was requested that Ortsgruppenleiters be informed orally of the contents of this letter. This letter accompanied a propaganda drive which had been instituted by Goebbels to induce such lynchings, and clearly amounted to instructions to induce such lynchings or at least to violate the Geneva Convention by withdrawing any police protection. Some lynchings were carried out pursuant to this program, but it does not appear that they were carried out throughout all of Germany. Nevertheless, the existence of this circular letter shows that the heads of the Leadership Corps were utilizing it for a purpose which was patently illegal and which involved the use of the machinery of the Leadership Corps at least through the Ortsgruppenleiter.

Conclusion

The Leadership Corps was used for purposes which were criminal under the Charter and involved the Germanization of incorporated territory, the persecution of the Jews, the administration of the slave labor program, and the mistreatment of prisoners of war. The Defendants Bormann and Sauckel, who were members of this organization, were among those who used it for these purposes. The Gauleiters, the Kreisleiters, and the Ortsgruppenleiters participated, to one degree or another, in these criminal programs. The Reichsleitung as the staff organization of the Party is also responsible for these criminal programs as well as the heads of the various staff organizations of the Gauleiters and Kreisleiters. The decision of the Tribunal on these staff organizations includes only the Amtsleiters who were heads of offices on the staffs of the Reichsleitung, Gauleitung, and Kreisleitung. With respect to other staff officers and Party organizations attached to the Leadership Corps other than the Amtsleiters referred to above, the Tribunal will follow the suggestion of the Prosecution in excluding them from the declaration.

The Tribunal declares to be criminal within the meaning of the Charter the group composed of those members of the Leadership Corps holding the positions enumerated in the preceding paragraph who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organization in the commission of such crimes. The basis of this finding is the participation of the organization in War Crimes and Crimes against Humanity connected with the war; the group declared criminal cannot include, therefore, persons who had ceased to hold the positions enumerated in the preceding paragraph prior to 1 September 1939.

GESTAPO AND SD

Structure and Component Parts: The Prosecution has named Die Geheime Staatspolizei (Gestapo) and Der Sicherheitsdienst des Reichsführer SS (SD) as groups or organizations which should be declared criminal. The Prosecution presented the cases against the Gestapo and SD together, stating that this was necessary because of the close working relationship between them. The Tribunal permitted the SD to present its defense separately because of a claim of conflicting interests, but after examining the evidence has decided to consider the case of the Gestapo and SD together.

The Gestapo and the SD were first linked together on 26 June 1936 by the appointment of Heydrich, who was the Chief of the SD, to the position of Chief of the Security Police, which was defined to include both the Gestapo and the Criminal Police. Prior to that time the SD had been the intelligence agency, first of the SS, and, after 4 June 1934, of the entire Nazi Party. The Gestapo had been composed of the various political police forces of the several German Federal states which had been unified under the personal leadership of Himmler, with the assistance of Göring. Himmler had been appointed Chief of the German Police in the Ministry of the Interior on 17 June 1936, and in his capacity as Reichsführer SS and Chief of the German Police issued his decree of 26 June 1936, which placed both the Criminal Police, or Kripo, and the Gestapo in the Security Police, and placed both the Security Police and the SD under the command of Heydrich.

This consolidation under the leadership of Heydrich of the Security Police, a State organization, and the SD, a Party organization, was formalized by the decree of 27 September 1939, which united the various State and Party offices which were under Heydrich as Chief of the Security Police and SD into one administrative unit, the Reichs Security Head Office (RSHA) which was at the same time both one of the principal offices (Hauptamter) of the

SS under Himmler as Reichsführer SS and an office in the Ministry of the Interior under Himmler as Chief of the German Police. The internal structure of the RSHA shows the manner in which it consolidated the offices of the Security Police with those of the SD. The RSHA was divided into seven offices (Ämter), two of which (Amt I and Amt II) dealt with administrative matters. The Security Police were represented by Amt IV, the head office of the Gestapo, and by Amt V, the head office of the Criminal Police. The SD were represented by Amt III, the head office for SD activities inside Germany, by Amt VI, the head office for SD activities outside of Germany and by Amt VII, the office for ideological research. Shortly after the creation of the RSHA, in November 1939, the Security Police was "coordinated" with the SS by taking all officials of the Gestapo and Criminal Police into the SS at ranks equivalent to their positions.

The creation of the RSHA represented the formalization, at the top level, of the relationship under which the SD served as the intelligence agency for the Security Police. A similar coordination existed in the local offices. Within Germany and areas which were incorporated within the Reich for the purpose of civil administration, local offices of the Gestapo, Criminal Police, and SD were formally separate. They were subject to coordination by Inspectors of the Security Police and SD on the staffs of the local Higher SS and Police Leaders, however, and one of the principal functions of the local SD units was to serve as the intelligence agency for the local Gestapo units. In the occupied territories, the formal relationship between local units of the Gestapo, Criminal Police, and SD was slightly closer. They were organized into local units of the Security Police and SD and were under the control of both the RSHA and of the Higher SS and Police Leader who was appointed by Himmler to serve on the staff of the occupying authority. The offices of the Security Police and SD in occupied territory were composed of departments corresponding to the various Amts of the RSHA. In occupied territories which were still considered to be operational military areas or where German control had not been formally established, the organization of the Security Police and SD was only slightly changed. Members of the Gestapo, Kripo, and SD were joined together into military type organizations known as Einsatz Kommandos and Einsatzgruppen in which the key positions were held by members of the Gestapo, Kripo, and SD and in which members of the Order Police, the Waffen SS and even the Wehrmacht were used as auxiliaries. These organizations were under the over-all control of the RSHA, but in front line areas were under the operational control of the appropriate Army Commander.

It can thus be seen that from a functional point of view both the Gestapo and the SD were important and closely related groups within the organization of the Security Police and the SD. The Security Police and SD was under a single command, that of Heydrich and later Kaltenbrunner, as Chief of the Security Police and SD; it had a single headquarters, the RSHA; it had its own command channels and worked as one organization both in Germany, in occupied territories, and in the areas immediately behind the front lines. During the period with which the Tribunal is primarily concerned, applicants for positions in the Security Police and SD received training in all its components, the Gestapo, Criminal Police, and SD. Some confusion has been caused by the fact that part of the organization was technically a formation of the Nazi Party while another part of the organization was an office in the Government, but this is of no particular significance in view of the law of 1 December 1933, declaring the unity of the Nazi Party and the German State.

The Security Police and SD was a voluntary organization. It is true that many civil servants and administrative officials were transferred into the Security Police. The claim that this transfer was compulsory amounts to nothing more than the claim that they had to accept the transfer or resign their positions, with a possibility of having incurred official disfavor. During the war a member of the Security Police and SD did not have a free choice of assignments within that organization and the refusal to accept a particular position, especially when serving in occupied territory, might have led to serious punishment. The fact remains, however, that all members of the Security Police and SD joined the organization voluntarily under no other sanction than the desire to retain their positions as officials.

The organization of the Security Police and SD also included three special units which must be dealt with separately. The first of these was the Frontier Police or Grenzpolizei which came under the control of the Gestapo in 1937. Their duties consisted in the control of passage over the borders of Germany. They arrested persons who crossed illegally. It is also clear from the evidence presented that they received directives from the Gestapo to transfer foreign workers whom they apprehended to concentration camps. They could also request the local office of the Gestapo for permission to commit persons arrested to concentration camps. The Tribunal is of the opinion that the Frontier Police must be included in the charge of criminality against the Gestapo.

The border and customs protection or Zollgrenzschutz became part of the Gestapo in the summer of 1944. The functions of this organization were similar to the Frontier Police in enforcing border regulations with particular respect to the prevention of smuggling.

It does not appear, however, that their transfer was complete but that about half of their personnel of 54,000 remained under the Reich Finance Administration or the Order Police. A few days before the end of the war the whole organization was transferred back to the Reich Finance Administration. The transfer of the organization to the Gestapo was so late and it participated so little in the over-all activities of the organization that the Tribunal does not feel that it should be dealt with in considering the criminality of the Gestapo.

The third organization was the so-called Secret Field Police which was originally under the Army but which in 1942 was transferred by military order to the Security Police. The Secret Field police was concerned with security matters within the Army in occupied territory, and also with the prevention of attacks by civilians on military installations or units, and committed War Crimes and Crimes against Humanity on a wide scale. It has not been proved, however, that it was a part of the Gestapo and the Tribunal does not consider it as coming within the charge of criminality contained in the Indictment, except such members as may have been transferred to Amt IV of the RSHA or were members of organizations declared criminal by this Judgment.

Criminal Activity: Originally, one of the primary functions of the Gestapo was the prevention of any political opposition to the Nazi regime, a function which it performed with the assistance of the SD. The principal weapon used in performing this function was the concentration camp. The Gestapo did not have administrative control over the concentration camps, but, acting through the RSHA, was responsible for the detention of political prisoners in those camps. Gestapo officials were usually responsible for the interrogation of political prisoners at the camps.

The Gestapo and the SD also dealt with charges of treason and with questions relating to the press, the churches and the Jews. As the Nazi program of anti-Semitic persecution increased in intensity the role played by these groups became increasingly important. In the early morning of 10 November 1938, Heydrich sent a telegram to all offices of the Gestapo and SD giving instructions for the organization of the pogroms of that date and instructing them to arrest as many Jews as the prisons could hold "especially rich ones", but to be careful that those arrested were healthy and not too old. By 11 November 1938, 20,000 Jews had been arrested and many were sent to concentration camps. On 24 January 1939 Heydrich, the Chief of the Security Police and SD, was charged with furthering the emigration and evacuation of Jews from Germany, and on 31 July 1941, with bringing about a complete solution of the Jewish problem in German-dominated Europe. A special section of the Gestapo office of the RSHA under Standartenführer Eichmann was

set up with responsibility for Jewish matters which employed its own agents to investigate the Jewish problem in occupied territory. Local offices of the Gestapo were used first to supervise the emigration of Jews and later to deport them to the East both from Germany and from the territories occupied during the war. Einsatzgruppen of the Security Police and SD operating behind the lines of the Eastern Front engaged in the wholesale massacre of Jews. A special detachment from Gestapo headquarters in the RSHA was used to arrange for the deportation of Jews from Axis satellites to Germany for the "final solution".

Local offices of the Security Police and SD played an important role in the German administration of occupied territories. The nature of their participation is shown by measures taken in the summer of 1938 in preparation for the attack on Czechoslovakia which was then in contemplation. Einsatzgruppen of the Gestapo and SD were organized to follow the Army into Czechoslovakia to provide for the security of political life in the occupied territories. Plans were made for the infiltration of SD men into the area in advance, and for the building up of a system of files to indicate what inhabitants should be placed under surveillance, deprived of passports, or liquidated. These plans were considerably altered due to the cancellation of the attack on Czechoslovakia, but in the military operations which actually occurred, particularly in the war against U.S.S.R., Einsatzgruppen of the Security Police and SD went into operation, and combined brutal measures for the pacification of the civilian population with the wholesale slaughter of Jews. Heydrich gave orders to fabricate incidents on the Polish-German frontier in 1939 which would give Hitler sufficient provocation to attack Poland. Both Gestapo and SD personnel were involved in these operations.

The local units of the Security Police and SD continued their work in the occupied territories after they had ceased to be an area of operations. The Security Police and SD engaged in widespread arrests of the civilian population of these occupied countries, imprisoned many of them under inhumane conditions, subjected them to brutal third degree methods, and sent many of them to concentration camps. Local units of the Security Police and SD were also involved in the shooting of hostages, the imprisonment of relatives, the execution of persons charged as terrorists and saboteurs without a trial, and the enforcement of the "Nacht und Nebel" decrees under which persons charged with a type of offense believed to endanger the security of the occupying forces were either executed within a week or secretly removed to Germany without being permitted to communicate with their family and friends.

Offices of the Security Police and SD were involved in the administration of the Slave Labor Program. In some occupied terri-

tories they helped local labor authorities to meet the quotas imposed by Sauckel. Gestapo offices inside of Germany were given surveillance over slave laborers and responsibility for apprehending those who were absent from their place of work. The Gestapo also had charge of the so-called work training camps. Although both German and foreign workers could be committed to these camps, they played a significant role in forcing foreign laborers to work for the German war effort. In the latter stages of the war as the SS embarked on a slave labor program of its own, the Gestapo was used to arrest workers for the purpose of insuring an adequate supply in the concentration camps.

The local offices of the Security Police and SD were also involved in the commission of War Crimes involving the mistreatment and murder of prisoners of war. Soviet prisoners of war in prisoner-of-war camps in Germany were screened by Einsatz Kommandos acting under the directions of the local Gestapo offices. Commissars, Jews, members of the intelligentsia, "fanatical Communists" and even those who were considered incurably sick were classified as "intolerable", and exterminated. The local offices of the Security Police and SD were involved in the enforcement of the "Bullet" decree, put into effect on 4 March 1944, under which certain categories of prisoners of war, who were recaptured, were not treated as prisoners of war but taken to Mauthausen in secret and shot. Members of the Security Police and SD were charged with the enforcement of the decree for the shooting of parachutists and commandos.

Conclusion

The Gestapo and SD were used for purposes which were criminal under the Charter involving the persecution and extermination of the Jews, brutalities, and killings in concentration camps, excesses in the administration of occupied territories, the administration of the slave labor program, and the mistreatment and murder of prisoners of war. The Defendant Kaltenbrunner, who was a member of this organization, was among those who used it for these purposes. In dealing with the Gestapo the Tribunal includes all executive and administrative officials of Amt IV of the RSHA or concerned with Gestapo administration in other departments of the RSHA and all local Gestapo officials serving both inside and outside of Germany, including the members of the Frontier Police, but not including the members of the Border and Customs Protection or the Secret Field Police, except such members as have been specified above. At the suggestion of the Prosecution the Tribunal does not include persons employed by the Gestapo for purely clerical, stenographic, janitorial, or similar unofficial routine tasks. In dealing with the SD the Tribunal includes Ämter III, VI, and VII of the RSHA and all other

members of the SD, including all local representatives and agents, honorary or otherwise, whether they were technically members of the SS or not, but not including honorary informers who were not members of the SS, and members of the Abwehr who were transferred to the SD.

The Tribunal declares to be criminal within the meaning of the Charter the group composed of those members of the Gestapo and SD holding the positions enumerated in the preceding paragraph who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organization in the commission of such crimes. The basis for this finding is the participation of the organization in War Crimes and Crimes against Humanity connected with the war; this group declared criminal cannot include, therefore, persons who had ceased to hold the positions enumerated in the preceding paragraph prior to 1 September 1939.

SS

Structure and Component Parts: The Prosecution has named Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SS) as an organization which should be declared criminal. The portion of the Indictment dealing with the SS also includes Der Sicherheitsdienst des Reichsführer-SS (commonly known as the SD). This latter organization, which was originally an intelligence branch of the SS, later became an important part of the organization of Security Police and SD and is dealt with in the Tribunal's Judgment on the Gestapo.

The SS was originally established by Hitler in 1925 as an elite section of the SA for political purposes under the pretext of protecting speakers at public meetings of the Nazi Party. After the Nazis had obtained power the SS was used to maintain order and control audiences at mass demonstrations and was given the additional duty of "internal security" by a decree of the Führer. The SS played an important role at the time of the Röhm purge of 30 June 1934, and, as a reward for its services, was made an independent unit of the Nazi Party shortly thereafter.

In 1929 when Himmler was first appointed as Reichs Führer the SS consisted of 280 men who were regarded as especially trustworthy. In 1933 it was composed of 52,000 men drawn from all walks of life. The original formation of the SS was the Allgemeine SS, which by 1939 had grown to a corps of 240,000 men, organized on military lines into divisions and regiments. During the war its strength declined to well under 40,000.

The SS originally contained two other formations, the SS Verfügungstruppe, a force consisting of SS members who volunteered for four years' armed service in lieu of compulsory service with the Army, and the SS Totenkopf Verbände, special troops employed to guard concentration camps, which came under the control of the SS in 1934. The SS Verfügungstruppe was organized as an armed unit to be employed with the Army in the event of mobilization. In the summer of 1939, the Verfügungstruppe was equipped as a motorized division to form the nucleus of the forces which came to be known in 1940 as the Waffen SS. In that year the Waffen SS comprised 100,000 men, 56,000 coming from the Verfügungstruppe and the rest from the Allgemeine SS and the Totenkopf Verbände. At the end of the war it is estimated to have consisted of about 580,000 men and 40 divisions. The Waffen SS was under the tactical command of the Army, but was equipped and supplied through the administrative branches of the SS and under SS disciplinary control.

The SS Central Organization had 12 main offices. The most important of these were the RSHA, which has already been discussed, the WVHA or Economic Administration Main Office which administered concentration camps along with its other duties, a Race and Settlement Office together with auxiliary offices for repatriation of racial Germans (Volksdeutschemittelstelle). The SS Central Organization also had a legal office and the SS possessed its own legal system; and its personnel were under the jurisdiction of special courts. Also attached to the SS main offices was a research foundation known as the Experiments Ahnenerbe. The scientists attached to this organization are stated to have been mainly honorary members of the SS. During the war an institute for military scientific research became attached to the Ahnenerbe which conducted extensive experiments involving the use of living human beings. An employee of this institute was a certain Dr. Rascher, who conducted these experiments with the full knowledge of the Ahnenerbe, which were subsidized and under the patronage of the Reichsführer SS who was a trustee of the foundation.

Beginning in 1933 there was a gradual but thorough amalgamation of the police and SS. In 1936 Himmler, the Reichsführer SS, became Chief of the German Police with authority over the regular uniformed police as well as the Security Police. Himmler established a system under which Higher SS and Police Leaders, appointed for each Wehrkreis, served as his personal representatives in coordinating the activities of the Order Police, Security Police and SD and Allgemeine SS within their jurisdictions. In 1939 the SS and police systems were coordinated by taking into the SS all

officials of the Security and Order Police, at SS ranks equivalent to their rank in the police.

Until 1940 the SS was an entirely voluntary organization. After the formation of the Waffen SS in 1940 there was a gradually increasing number of conscripts into the Waffen SS. It appears that about a third of the total number of people joining the Waffen SS were conscripts, that the proportion of conscripts was higher at the end of the war than at the beginning, but that there continued to be a high proportion of volunteers until the end of the war.

Criminal Activities: SS units were active participants in the steps leading up to aggressive war. The Verfügungstruppe was used in the occupation of the Sudetenland, of Bohemia and Moravia, and of Memel. The Henlein Free Corps was under the jurisdiction of the Reichsführer SS for operations in the Sudetenland in 1938, and the Volksdeutschemittelstelle financed fifth-column activities there.

The SS was even a more general participant in the commission of War Crimes and Crimes against Humanity. Through its control over the organization of the Police, particularly the Security Police and SD, the SS was involved in all the crimes which have been outlined in the section of this Judgment dealing with the Gestapo and SD. Other branches of the SS were equally involved in these criminal programs. There is evidence that the shooting of unarmed prisoners of war was the general practice in some Waffen SS divisions. On 1 October 1944 the custody of prisoners of war and interned persons was transferred to Himmler, who in turn transferred prisoner-of-war affairs to SS Obergruppenführer Berger and to SS Obergruppenführer Pohl. The Race and Settlement Office of the SS together with the Volksdeutschemittelstelle were active in carrying out schemes for Germanization of occupied territories according to the racial principles of the Nazi Party and were involved in the deportation of Jews and other foreign nationals. Units of the Waffen SS and Einsatzgruppen operating directly under the SS main office were used to carry out these plans. These units were also involved in the widespread murder and ill-treatment of the civilian population of occupied territories. Under the guise of combatting partisan units, units of the SS exterminated Jews and people deemed politically undesirable by the SS, and their reports record the execution of enormous numbers of persons. Waffen SS divisions were responsible for many massacres and atrocities in occupied territories such as the massacres at Oradour and Lidice.

From 1934 onwards the SS was responsible for the guarding and administration of concentration camps. The evidence leaves no doubt that the consistently brutal treatment of the inmates of concentration camps was carried out as a result of the general policy

of the SS, which was that the inmates were racial inferiors to be treated only with contempt. There is evidence that where manpower considerations permitted, Himmler wanted to rotate guard battalions so that all members of the SS would be instructed as to the proper attitude to take to inferior races. After 1942 when the concentration camps were placed under the control of the WVHA they were used as a source of slave labor. An agreement made with the Ministry of Justice on 18 September 1942 provided that antisocial elements who had finished prison sentences were to be delivered to the SS to be worked to death. Steps were continually taken, involving the use of the Security Police and SD and even the Waffen SS, to insure that the SS had an adequate supply of concentration camp labor for its projects. In connection with the administration of the concentration camps, the SS embarked on a series of experiments on human beings which were performed on prisoners of war or concentration camp inmates. These experiments included freezing to death, and killing by poison bullets. The SS was able to obtain an allocation of Government funds for this kind of research on the grounds that they had access to human material not available to other agencies.

The SS played a particularly significant role in the persecution of the Jews. The SS was directly involved in the demonstrations of 10 November 1938. The evacuation of the Jews from occupied territories was carried out under the directions of the SS with the assistance of SS Police units. The extermination of the Jews was carried out under the direction of the SS Central Organizations. It was actually put into effect by SS formations. The Einstzgruppen engaged in wholesale massacres of the Jews. SS Police units were also involved. For example, the massacre of Jews in the Warsaw ghetto was carried out under the directions of SS Brigadeführer and Major General of the Police Stroop. A special group from the SS Central Organization arranged for the deportation of Jews from various Axis satellites and their extermination was carried out in the concentration camps run by the WVHA.

It is impossible to single out any one portion of the SS which was not involved in these criminal activities. The Allgemeine SS was an active participant in the persecution of the Jews and was used as a source of concentration camp guards. Units of the Waffen SS were directly involved in the killing of prisoners of war and the atrocities in occupied countries. It supplied personnel for the Einsatzgruppen, and had command over the concentration camp guards after its absorption of the Totenkopf SS, which originally controlled the system. Various SS Police units were also widely used in the atrocities in occupied countries and the extermination of the Jews there. The SS Central Organization supervised the

activities of these various formations and was responsible for such special projects as the human experiments and "final solution" of the Jewish question.

The Tribunal finds that knowledge of these criminal activities was sufficiently general to justify declaring that the SS was a criminal organization to the extent hereinafter described. It does appear that an attempt was made to keep secret some phases of its activities, but its criminal programs were so widespread, and involved slaughter on such a gigantic scale, that its criminal activities must have been widely known. It must be recognized, moreover, that the criminal activities of the SS followed quite logically from the principles on which it was organized. Every effort had been made to make the SS a highly disciplined organization composed of the elite of National Socialism. Himmler had stated that there were people in Germany "who become sick when they see these black coats" and that he did not expect that "they should be loved by too many." Himmler also indicated his view that the SS was concerned with perpetuating the elite racial stock with the object of making Europe a Germanic continent and the SS was instructed that it was designed to assist the Nazi Government in the ultimate domination of Europe and the elimination of all inferior races. This mystic and fanatical belief in the superiority of the Nordic German developed into the studied contempt and even hatred of other races which led to criminal activities of the type outlined above being considered as a matter of course if not a matter of pride. The actions of a soldier in the Waffen SS who in September 1939, acting entirely on his own initiative, killed 50 Jewish laborers whom he had been guarding, were described by the statement that as an SS man, he was "particularly sensitive to the sight of Jews," and had acted "quite thoughtlessly in a youthful spirit of adventure" and a sentence of three-years imprisonment imposed on him was dropped under an amnesty. Hess wrote with truth that the Waffen SS were more suitable for the specific tasks to be solved in occupied territory owing to their extensive training in questions of race and nationality. Himmler, in a series of speeches made in 1943, indicated his pride in the ability of the SS to carry out these criminal acts. He encouraged his men to be "tough and ruthless", he spoke of shooting "thousands of leading Poles", and thanked them for their cooperation and lack of squeamishness at the sight of hundreds and thousands of corpses of their victims. He extolled ruthlessness in exterminating the Jewish race and later described this process as "delousing." These speeches show that the general attitude prevailing in the SS was consistent with these criminal acts.

Conclusions: The SS was utilized for purposes which were criminal under the Charter involving the persecution and extermination of the Jews, brutalities and killings in concentration camps, excesses in the administration of occupied territories, the administration of the slave labor program and the mistreatment and murder of prisoners of war. The Defendant Kaltenbrunner was a member of the SS implicated in these activities. In dealing with the SS the Tribunal includes all persons who had been officially accepted as members of the SS including the members of the Allgemeine SS, members of the Waffen SS, members of the SS Totenkopf Verbände, and the members of any of the different police forces who were members of the SS. The Tribunal does not include the so-called SS riding units. Der Sicherheitsdienst des Reichsführer SS (commonly known as the SD) is dealt with in the Tribunal's Judgment on the Gestapo and SD.

The Tribunal declares to be criminal within the meaning of the Charter the group composed of those persons who had been officially accepted as members of the SS as enumerated in the preceding paragraph who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organization in the commission of such crimes, excluding, however, those who were drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes. The basis of this finding is the participation of the organization in War Crimes and Crimes against Humanity connected with the war; this group declared criminal cannot include, therefore, persons who had ceased to belong to the organizations enumerated in the preceding paragraph prior to 1 September 1939.

THE SA

Structure and Component Parts: The Prosecution has named Die Sturmabteilungen der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SA) as an organization which should be declared criminal. The SA was founded in 1921 for political purposes. It was organized on military lines. Its members wore their own uniforms and had their own discipline and regulations. After the Nazis had obtained power the SA greatly increased in membership due to the incorporation within it of certain veterans organizations. In April 1933 the Stahlhelm, an organization of 1½ million members, was transferred into the SA, with the exception of its members over 45 years of age and some others, pursuant to an agreement between their leader Seldte and Hitler. Another veterans organization, the so-called Kyffhauserbund, was

transferred in the same manner, together with a number of rural riding organizations.

Until 1933, there is no question but that membership in the SA was voluntary. After 1933 civil servants were under certain political and economic pressure to join the SA. Members of the Stahlhelm, the Kyffhauserbund, and the rural riding associations were transferred into the SA without their knowledge, but the Tribunal is not satisfied that the members in general endeavored to protest against this transfer or that there was any evidence, except in isolated cases, of the consequences of refusal. The Tribunal therefore finds that membership in the SA was generally voluntary.

By the end of 1933 the SA was composed of 4½ million men. As a result of changes made after 1934, in 1939 the SA numbered 1½ million men.

Activities: In the early days of the Nazi movement the storm troopers of the SA acted as the "strong arm of the Party". They took part in the beer hall feuds and were used for street fighting in battles against political opponents. The SA was also used to disseminate Nazi ideology and propaganda and placed particular emphasis on anti-Semitic propaganda, the doctrine of "Lebensraum", the revision of the Versailles Treaty, and the return of Germany's colonies.

After the Nazi advent to power, and particularly after the elections of 5 March 1933, the SA played an important role in establishing a Nazi reign of terror over Germany. The SA was involved in outbreaks of violence against the Jews and was used to arrest political opponents and to guard concentration camps, where they subjected their prisoners to brutal mistreatment.

On 30 June and 1 and 2 July 1934 a purge of SA leaders occurred. The pretext which was given for this purge, which involved the killing of Röhm, the Chief of Staff of the SA, and many other SA leaders, was the existence of a plot against Hitler. This purge resulted in a great reduction in the influence and power of the SA. After 1934, it rapidly declined in political significance.

After 1934 the SA engaged in certain forms of military or paramilitary training. The SA continued to engage in the dissemination of Nazi propaganda. Isolated units of the SA were even involved in the steps leading up to aggressive war and in the commission of War Crimes and Crimes against Humanity. SA units were among the first in the occupation of Austria in March 1938. The SA supplied many of the men and a large part of the equipment which composed the Sudeten Free Corps of Henlein, although it appears that the corps was under the jurisdiction of SS during its operation in Czechoslovakia.

After the occupation of Poland, the SA group Sudeten was used for transporting prisoners of war. Units of the SA were employed in the guarding of prisoners in Danzig, Posen, Silesia, and the Baltic States.

Some SA units were used to blow up synagogues in the Jewish pogrom of 10 and 11 November 1938. Groups of the SA were concerned in the ill-treatment of Jews in the ghettos of Vilna and Kaunas.

Conclusion

Until the purge beginning on 30 June 1934, the SA was a group composed in large part of ruffians and bullies who participated in the Nazi outrages of that period. It has not been shown, however, that these atrocities were part of a specific plan to wage aggressive war, and the Tribunal therefore cannot hold that these activities were criminal under the Charter. After the purge, the SA was reduced to the status of a group of unimportant Nazi hangers-on. Although in specific instances some units of the SA were used for the commission of War Crimes and Crimes against Humanity, it cannot be said that its members generally participated in or even knew of the criminal acts. For these reasons the Tribunal does not declare the SA to be a criminal organization within the meaning of Article 9 of the Charter.

THE REICH CABINET

The Prosecution has named as a criminal organization the Reich Cabinet (Die Reichsregierung) consisting of members of the ordinary cabinet after 30 January 1933, members of the Council of Ministers for the Defense of the Reich and members of the Secret Cabinet Council. The Tribunal is of opinion that no declaration of criminality should be made with respect to the Reich Cabinet for two reasons: (1) because it is not shown that after 1937 it ever really acted as a group or organization; (2) because the group of persons here charged is so small that members could be conveniently tried in proper cases without resort to a declaration that the Cabinet of which they were members was criminal.

As to the first reason for our decision, it is to be observed that from the time that it can be said that a conspiracy to make aggressive war existed the Reich Cabinet did not constitute a governing body, but was merely an aggregation of administrative officers subject to the absolute control of Hitler. Not a single meeting of the Reich Cabinet was held after 1937, but laws were promulgated in the name of one or more of the cabinet members. The Secret Cabinet Council never met at all. A number of the cabinet members were undoubtedly involved in the conspiracy to make aggressive war; but they were involved as individuals and there is no

evidence that the Cabinet as a group or organization took any part in these crimes. It will be remembered that when Hitler disclosed his aims of criminal aggression at the Hossbach Conference, the disclosure was not made before the Cabinet and that the Cabinet was not consulted with regard to it, but, on the contrary, that it was made secretly to a small group upon whom Hitler would necessarily rely in carrying on the war. Likewise no cabinet order authorized the invasion of Poland. On the contrary, the Defendant Schacht testifies that he sought to stop the invasion by a plea to the Commander-in-Chief of the Army that Hitler's order was in violation of the Constitution because not authorized by the Cabinet.

It does appear, however, that various laws authorizing acts which were criminal under the Charter were circulated among the members of the Reich Cabinet and issued under its authority signed by the members whose departments were concerned. This does not, however, prove that the Reich Cabinet, after 1937, ever really acted as an organization.

As to the second reason, it is clear that those members of the Reich Cabinet who have been guilty of crimes should be brought to trial; and a number of them are now on trial before the Tribunal. It is estimated that there are 48 members of the group, that eight of these are dead and 17 are now on trial, leaving only 23 at the most, as to whom the declaration could have any importance. Any others who are guilty should also be brought to trial; but nothing would be accomplished to expedite or facilitate their trials by declaring the Reich Cabinet to be a criminal organization. Where an organization with a large membership is used for such purposes, a declaration obviates the necessity of inquiring as to its criminal character in the later trial of members who are accused of participating through membership in its criminal purposes and thus saves much time and trouble. There is no such advantage in the case of a small group like the Reich Cabinet.

GENERAL STAFF AND HIGH COMMAND

The Prosecution has also asked that the General Staff and High Command of the German Armed Forces be declared a criminal organization. The Tribunal believes that no declaration of criminality should be made with respect to the General Staff and High Command. The number of persons charged, while larger than that of the Reich Cabinet, is still so small that individual trials of these officers would accomplish the purpose here sought better than a declaration such as requested. But a more compelling reason is that in the opinion of the Tribunal the General Staff and High Command is neither an "organization" nor a "group" within the meaning of those terms as used in Article 9 of the Charter.

Some comment on the nature of this alleged group is requisite. According to the Indictment and evidence before the Tribunal, it consists of approximately 130 officers, living and dead, who at any time during the period from February 1938, when Hitler reorganized the Armed Forces, and May 1945, when Germany surrendered, held certain positions in the military hierarchy. These men were high-ranking officers in the three armed services: OKH — Army, OKM — Navy, and OKL — Air Force. Above them was the over-all Armed Forces authority, OKW — High Command of the German Armed Forces with Hitler as the Supreme Commander. The officers in OKW, including Defendant Keitel as Chief of the High Command, were in a sense Hitler's personal staff. In the larger sense they coordinated and directed the three services, with particular emphasis on the functions of planning and operations.

The individual officers in this alleged group were, at one time or another, in one of four categories: 1) Commanders-in-Chief of one of the three services; 2) Chief of Staff of one of the three services; 3) "Oberbefehlshabers", the field Commanders-in-Chief of one of the three services, which of course comprised by far the largest number of these persons; or 4) an OKW officer, of which there were three, Defendants Keitel and Jodl, and the latter's Deputy Chief, Warlimont. This is the meaning of the Indictment in its use of the term "General Staff and High Command".

The Prosecution has here drawn the line. The Prosecution does not indict the next level of the military hierarchy consisting of commanders of army corps, and equivalent ranks in the Navy and Air Force, nor the level below, the division commanders or their equivalent in the other branches. And the staff officers of the four staff commands of OKW, OKH, OKM, and OKL are not included, nor are the trained specialists who were customarily called General Staff officers.

In effect, then, those indicted as members are military leaders of the Reich of the highest rank. No serious effort was made to assert that they composed an "organization" in the sense of Article 9. The assertion is rather that they were a "group", which is a wider and more embracing term than "organization."

The Tribunal does not so find. According to the evidence, their planning at staff level, the constant conferences between staff officers and field commanders, their operational technique in the field and at headquarters was much the same as that of the armies, navies, and air forces of all other countries. The over-all effort of OKW at coordination and direction could be matched by a similar, though not identical form of organization in other military forces, such as the Anglo-American Combined Chiefs of Staff.

To derive from this pattern of their activities the existence of an association or group does not, in the opinion of the Tribunal, logically follow. On such a theory the top commanders of every other nation are just such an association rather than what they actually are, an aggregation of military men, a number of individuals who happen at a given period of time to hold the high-ranking military positions.

Much of the evidence and the argument has centered around the question of whether membership in these organizations was or was not voluntary; in this case, it seems to the Tribunal to be quite beside the point. For this alleged criminal organization has one characteristic, a controlling one, which sharply distinguishes it from the other five indicted. When an individual became a member of the SS for instance, he did so, voluntarily or otherwise, but certainly with the knowledge that he was joining something. In the case of the General Staff and High Command, however, he could not know he was joining a group or organization for such organization did not exist except in the charge of the Indictment. He knew only that he had achieved a certain high rank in one of the three services, and could not be conscious of the fact that he was becoming a member of anything so tangible as a "group", as that word is commonly used. His relations with his brother officers in his own branch of the service and his association with those of the other two branches were, in general, like those of other services all over the world.

The Tribunal therefore does not declare the General Staff and High Command to be a criminal organization.

Although the Tribunal is of the opinion that the term "group" in Article 9 must mean something more than this collection of military officers, it has heard much evidence as to the participation of the officers in planning and waging aggressive war, and in committing War Crimes and Crimes against Humanity. This evidence is, as to many of them, clear and convincing.

They have been responsible in large measure for the miseries and suffering that have fallen on millions of men, women, and children. They have been a disgrace to the honorable profession of arms. Without their military guidance the aggressive ambitions of Hitler and his fellow Nazis would have been academic and sterile. Although they were not a group falling within the words of the Charter, they were certainly a ruthless military caste. The contemporary German militarism flourished briefly with its recent ally, National Socialism, as well as or better than it had in the generations of the past.

Many of these men have made a mockery of the soldier's oath of obedience to military orders. When it suits their defense they

say they had to obey; when confronted with Hitler's brutal crimes. which are shown to have been within their general knowledge, they say they disobeyed. The truth is they actively participated in all these crimes, or sat silent and acquiescent, witnessing the commission of crimes on a scale larger and more shocking than the world has ever had the misfortune to know. This must be said.

Where the facts warrant it, these men should be brought to trial so that those among them who are guilty of these crimes should not escape punishment.

Article 26 of the Charter provides that the Judgment of the Tribunal as to the guilt or innocence of any Defendant shall give the reasons on which it is based.

The Tribunal will now state those reasons in declaring its Judgment on such guilt or innocence.

GÖRING

Göring is indicted on all four Counts. The evidence shows that after Hitler he was the most prominent man in the Nazi regime. He was Commander-in-Chief of the Luftwaffe, Plenipotentiary for the Four Year Plan, and had fremendous influence with Hitler, at least until 1943 when their relationship deteriorated, ending in his arrest in 1945. He testified that Hitler kept him informed of all important military and political problems.

Crimes against Peace

From the moment he joined the Party in 1922 and took command of the street-fighting organization, the SA, Göring was the adviser, the active agent of Hitler, and one of the prime leaders of the Nazi movement. As Hitler's political deputy he was largely instrumental in bringing the National Socialists to power in 1933, and was charged with consolidating this power and expanding German armed might. He developed the Gestapo, and created the first concentration camps, relinquishing them to Himmler in 1934, conducted the Röhm purge in that year, and engineered the sordid proceedings which resulted in the removal of Von Blomberg and Von Fritsch from the Army. In 1936 he became Plenipotentiary for the Four Year Plan, and in theory and in practice was the economic dictator of the Reich. Shortly after the Pact of Munich, he announced that he would embark on a five-fold expansion of the Luftwaffe, and speed rearmament with emphasis on offensive weapons.

Göring was one of the five important leaders present at the Hossbach Conference of 5 November 1937, and he attended the other important conferences already discussed in this Judgment. In the Austrian Anschluss, he was indeed the central figure, the ringleader.

He said in Court: "I must take 100 per cent responsibility.... I even overruled objections by the Führer and brought everything to its final development." In the seizure of the Sudetenland, he played his role as Luftwaffe chief by planning an air offensive which proved unnecessary, and his role as politician by lulling the Czechs with false promises of friendship. The night before the invasion of Czechoslovakia and the absorption of Bohemia and Moravia, at a conference with Hitler and President Hacha he threatened to bomb Prague if Hacha did not submit. This threat he admitted in his testimony.

Göring attended the Reich Chancellery meeting of 23 May 1939 when Hitler told his military leaders "there is, therefore, no question of sparing Poland," and was present at the Obersalzberg briefing of 22 August 1939. And the evidence shows he was active in the diplomatic maneuvers which followed. With Hitler's connivance, he used the Swedish businessman, Dahlerus, as a go-between to the British, as described by Dahlerus to this Tribunal, to try to prevent the British Government from keeping its guarantee to the Poles.

He commanded the Luftwaffe in the attack on Poland and throughout the aggressive wars which followed.

Even if he opposed Hitler's plans against Norway and the Soviet Union, as he alleged, it is clear that he did so only for strategic reasons; once Hitler had decided the issue, he followed him without hesitation. He made it clear in his testimony that these differences were never ideological or legal. He was "in a rage" about the invasion of Norway, but only because he had not received sufficient warning to prepare the Luftwaffe offensive. He admitted he approved of the attack: "My attitude was perfectly positive." He was active in preparing and executing the Yugoslavian and Greek campaigns, and testified that "Plan Marita," the attack on Greece, had been prepared long beforehand. The Soviet Union he regarded as the "most threatening menace to Germany," but said there was no immediate military necessity for the attack. Indeed, his only objection to the war of aggression against the U.S.S.R. was its timing; he wished for strategic reasons to delay until Britain was conquered. He testified: "My point of view was decided by political and military reasons only."

After his own admissions to this Tribunal, from the positions which he held, the conferences he attended, and the public words he uttered, there can remain no doubt that Göring was the moving force for aggressive war, second only to Hitler. He was the planner and prime mover in the military and diplomatic preparation for war which Germany pursued.

The record is filled with Göring's admissions of his complicity in the use of slave labor.

> "We did use this labor for security reasons so that they would not be active in their own country and would not work against us. On the other hand, they served to help in the economic war."

And again:

> "Workers were forced to come to the Reich. That is something I have not denied."

The man who spoke these words was Plenipotentiary for the Four Year Plan charged with the recruitment and allocation of manpower. As Luftwaffe Commander-in-Chief he demanded from Himmler more slave laborers for his underground aircraft factories: "That I requested inmates of concentration camps for the armament of the Luftwaffe is correct and it is to be taken as a matter of course."

As Plenipotentiary, Göring signed a directive concerning the treatment of Polish workers in Germany and implemented it by regulations of the SD, including "special treatment." He issued directives to use Soviet and French prisoners of war in the armament industry; he spoke of seizing Poles and Dutch and making them prisoners of war if necessary, and using them for work. He agrees Russian prisoners of war were used to man anti-aircraft batteries.

As Plenipotentiary, Göring was the active authority in the spoliation of conquered territory. He made plans for the spoliation of Soviet territory long before the war on the Soviet Union. Two months prior to the invasion of the Soviet Union, Hitler gave Göring the over-all direction for the economic administration in the territory. Göring set up an economic staff for this function. As Reichsmarshal of the Greater German Reich, "the orders of the Reich Marshal cover all economic fields, including nutrition and agriculture." His so-called "Green" folder, printed by the Wehrmacht, set up an "Economic Executive Staff, East." This directive contemplated plundering and abandonment of all industry in the food deficit regions and, from the food surplus regions, a diversion of food to German needs. Göring claims its purposes have been misunderstood but admits "that as a matter of course and a matter of duty we would have used Russia for our purposes," when conquered.

And he participated in the conference of 16 July 1941 when Hitler said the National Socialists had no intention of ever leaving the occupied countries, and that "all necessary measures—shooting, desettling, etc." should be taken.

Göring persecuted the Jews, particularly after the November 1938 riots, and not only in Germany where he raised the billion-mark fine as stated elsewhere, but in the conquered territories as well. His own utterances then and his testimony now shows this interest was primarily economic — how to get their property and how to force them out of the economic life of Europe. As these countries fell before the German Army, he extended the Reich's anti-Jewish laws to them; the *Reichsgesetzblatt* for 1939, 1940, and 1941 contains several anti-Jewish decrees signed by Göring. Although their extermination was in Himmler's hands, Göring was far from disinterested or inactive, despite his protestations in the witness box. By decree of 31 July 1941 he directed Himmler and Heydrich to "bring about a complete solution of the Jewish question in the German sphere of influence in Europe."

There is nothing to be said in mitigation. For Göring was often, indeed almost always, the moving force, second only to his leader. He was the leading war aggressor, both as political and as military leader; he was the director of the slave labor program and the creator of the oppressive program against the Jews and other races, at home and abroad. All of these crimes he has frankly admitted. On some specific cases there may be conflict of testimony but in terms of the broad outline, his own admissions are more than sufficiently wide to be conclusive of his guilt. His guilt is unique in its enormity. The record discloses no excuses for this man.

Conclusion

The Tribunal finds the Defendant Göring guilty on all four Counts of the Indictment.

HESS

Hess is indicted under all four Counts. He joined the Nazi Party in 1920 and participated in the Munich Putsch on 9 November 1923. He was imprisoned with Hitler in the Landsberg fortress in 1924 and became Hitler's closest personal confidant, a relationship which lasted until Hess' flight to the British Isles. On 21 April 1933 he was appointed Deputy to the Führer, and on 1 December 1933 was made Reichsminister without Portfolio. He was appointed member of the Secret Cabinet Council on 4 February 1938, and a member of the Ministerial Council for the Defense of the Reich on 30 August 1939. In September 1939 Hess was officially announced by Hitler as successor designate to the Führer after Göring. On 10 May 1941 he flew from Germany to Scotland.

Crimes against Peace

As deputy to the Führer, Hess was the top man in the Nazi Party with responsibility for handling all Party matters, and authority

to make decisions in Hitler's name on all questions of Party leadership. As Reichs Minister without Portfolio he had the authority to approve all legislation suggested by the different Reichs Ministers before it could be enacted as law. In these positions, Hess was an active supporter of preparations for war. His signature appears on the law of 16 March 1935 establishing compulsory military service. Throughout the years he supported Hitler's policy of vigorous rearmament in many speeches. He told the people that they must sacrifice for armaments, repeating the phrase, "Guns instead of butter." It is true that between 1933 and 1937 Hess made speeches in which he expressed a desire for peace and advocated international economic cooperation. But nothing which they contained can alter the fact that of all the defendants none knew better than Hess how determined Hitler was to realize his ambitions, how fanatical and violent a man he was, and how little likely he was to refrain from resort to force, if this was the only way in which he could achieve his aims.

Hess was an informed and willing participant in German aggression against Austria, Czechoslovakia, and Poland. He was in touch with the illegal Nazi Party in Austria throughout the entire period between the murder of Dollfuss, and the Anschluss, and gave instructions to it during that period. Hess was in Vienna on 12 March 1938 when the German troops moved in; and on 13 March 1938 he signed the law for the reunion of Austria within the German Reich. A law of 10 June 1939 provided for his participation in the administration of Austria. On 24 July 1938 he made a speech in commemoration of the unsuccessful putsch by Austrian National Socialists which had been attempted four years before, praising the steps leading up to Anschluss and defending the occupation of Austria by Germany.

In the summer of 1938 Hess was in active touch with Henlein, Chief of the Sudeten German Party in Czechoslovakia. On 27 September 1938, at the time of the Munich crisis, he arranged with Keitel to carry out the instructions of Hitler to make the machinery of the Nazi Party available for a secret mobilization. On 14 April 1939 Hess signed a decree setting up the Government of the Sudetenland as an integral part of the Reich; and an ordinance of 10 June 1939 provided for his participation in the administration of the Sudetenland. On 7 November 1938 Hess absorbed Henlein's Sudeten German Party into the Nazi Party, and made a speech in which he emphasized that Hitler had been prepared to resort to war if this had been necessary to acquire the Sudetenland.

On 27 August 1939 when the attack on Poland had been temporarily postponed in an attempt to induce Great Britain to abandon its guarantee to Poland, Hess publicly praised Hitler's "mag-

nanimous offer" to Poland, and attacked Poland for agitating for war and England for being responsible for Poland's attitude. After the invasion of Poland Hess signed decrees incorporating Danzig and certain Polish territories into the Reich, and setting up the General Government (Poland).

These specific steps which this defendant took in support of Hitler's plans for aggressive action do not indicate the full extent of his responsibility. Until his flight to England, Hess was Hitler's closest personal confidant. Their relationship was such that Hess must have been informed of Hitler's aggressive plans when they came into existence. And he took action to carry out these plans whenever action was necessary.

With him on his flight to England, Hess carried certain peace proposals which he alleged Hitler was prepared to accept. It is significant to note that this flight took place only 10 days after the date on which Hitler fixed, 22 June 1941, as the time for attacking the Soviet Union. In conversations carried on after his arrival in England Hess wholeheartedly supported all Germany's aggressive actions up to that time, and attempted to justify Germany's action in connection with Austria, Czechoslovakia, Poland, Norway, Denmark, Belgium, and the Netherlands. He blamed England and France for the war.

War Crimes and Crimes against Humanity

There is evidence showing the participation of the Party Chancellery, under Hess, in the distribution of orders connected with the commission of War Crimes; that Hess may have had knowledge of, even if he did not participate in, the crimes that were being committed in the East, and proposed laws discriminating against Jews and Poles; and that he signed decrees forcing certain groups of Poles to accept German citizenship. The Tribunal, however, does not find that the evidence sufficiently connects Hess with those crimes to sustain a finding of guilt.

As previously indicated the Tribunal found, after a full medical examination of and report on the condition of this defendant, that he should be tried, without any postponement of his case. Since that time further motions have been made that he should again be examined. These the Tribunal denied, after having had a report from the prison psychologist. That Hess acts in an abnormal manner, suffers from loss of memory, and has mentally deteriorated during this Trial, may be true. But there is nothing to show that he does not realize the nature of the charges against him, or is incapable of defending himself. He was ably represented at the Trial by counsel, appointed for that purpose by the Tribunal. There is no suggestion that Hess was not completely sane when the acts charged against him were committed.

Conclusion

The Tribunal finds the Defendant Hess guilty on Counts One and Two; and not guilty on Counts Three and Four.

VON RIBBENTROP

Von Ribbentrop is indicted under all four Counts. He joined the Nazi Party in 1932. By 1933 he had been made Foreign Policy Adviser to Hitler, and in the same year the representative of the Nazi Party on foreign policy. In 1934 he was appointed Delegate for Disarmament Questions, and in 1935 Minister Plenipotentiary at Large, a capacity in which he negotiated the Anglo-German Naval Agreement in 1935 and the Anti-Comintern Pact in 1936. On 11 August 1936 he was appointed Ambassador to England. On 4 February 1938 he succeeded Von Neurath as Reichsminister for Foreign Affairs as part of the general reshuffle which accompanied the dismissal of Von Fritsch and Von Blomberg.

Crimes against Peace

Von Ribbentrop was not present at the Hossbach Conference held on 5 November 1937, but on 2 January 1938, while still Ambassador to England, he sent a memorandum to Hitler indicating his opinion that a change in the *status quo* in the East in the German sense could only be carried out by force and suggesting methods to prevent England and France from intervening in a European war fought to bring about such a change. When Von Ribbentrop became Foreign Minister Hitler told him that Germany still had four problems to solve, Austria, Sudetenland, Memel, and Danzig, and mentioned the possibility of "some sort of a show-down" or "military settlement" for their solution.

On 12 February 1938 Von Ribbentrop attended the conference between Hitler and Schuschnigg at which Hitler, by threats of invasion, forced Schuschnigg to grant a series of concessions designed to strengthen the Nazis in Austria, including the appointment of Seyss-Inquart as Minister of Security and Interior, with control over the police. Von Ribbentrop was in London when the occupation of Austria was actually carried out and, on the basis of information supplied him by Göring, informed the British Government that Germany had not presented Austria with an ultimatum, but had intervened in Austria only to prevent civil war. On 13 March 1938 Von Ribbentrop signed the law incorporating Austria into the German Reich.

Von Ribbentrop participated in the aggressive plans against Czechoslovakia. Beginning in March 1938, he was in close touch with the Sudeten German Party and gave them instructions which had the effect of keeping the Sudeten German question a live issue which

might serve as an excuse for the attack which Germany was planning against Czechoslovakia. In August 1938 he participated in a conference for the purpose of obtaining Hungarian support in the event of a war with Czechoslovakia. After the Munich Pact he continued to bring diplomatic pressure with the object of occupying the remainder of Czechoslovakia. He was instrumental in inducing the Slovaks to proclaim their independence. He was present at the conference of 14-15 March 1939 at which Hitler, by threats of invasion, compelled President Hacha to consent to the German occupation of Czechoslovakia. After the German troops had marched in, Von Ribbentrop signed the law establishing a protectorate over Bohemia and Moravia.

Von Ribbentrop played a particularly significant role in the diplomatic activity which led up to the attack on Poland. He participated in a conference held on 12 August 1939, for the purpose of obtaining Italian support if the attack should lead to a general European war. Von Ribbentrop discussed the German demands with respect to Danzig and the Polish Corridor with the British Ambassador in the period from 25 August to 30 August 1939, when he knew that the German plans to attack Poland had merely been temporarily postponed in an attempt to induce the British to abandon their guarantee to the Poles. The way in which he carried out these discussions makes it clear that he did not enter them in good faith in an attempt to reach a settlement of the difficulties between Germany and Poland.

Von Ribbentrop was advised in advance of the attack on Norway and Denmark and of the attack on the Low Countries, and prepared the official Foreign Office memoranda attempting to justify these aggressive actions.

Von Ribbentrop attended the conference on 20 January 1941, at which Hitler and Mussolini discussed the proposed attack on Greece, and the conference in January 1941, at which Hitler obtained from Antonescu permission for German troops to go through Rumania for this attack. On 25 March 1941, when Yugoslavia adhered to the Axis Tri-partite Pact, Von Ribbentrop had assured Yugoslavia that Germany would respect its sovereignty and territorial integrity. On 27 March 1941 he attended the meeting, held after the *coup d'état* in Yugoslavia, at which plans were made to carry out Hitler's announced intention to destroy Yugoslavia.

Von Ribbentrop attended a conference in May 1941 with Hitler and Antonescu relating to Rumanian participation in the attack on the U.S.S.R. He also consulted with Rosenberg in the preliminary planning for the political exploitation of Soviet territories and in July 1941, after the outbreak of war, urged Japan to attack the Soviet Union.

Von Ribbentrop participated in a meeting of 6 June 1944, at which it was agreed to start a program under which Allied aviators carrying out machine gun attacks on the civilian population should be lynched. In December 1944 Von Ribbentrop was informed of the plans to murder one of the French generals held as a prisoner of war and directed his subordinates to see that the details were worked out in such a way as to prevent its detection by the protecting powers. Von Ribbentrop is also responsible for War Crimes and Crimes against Humanity because of his activities with respect to occupied countries and Axis satellites. The top German official in both Denmark and Vichy France was a Foreign Office representative, and Von Ribbentrop is therefore responsible for the general economic and political policies put into effect in the occupation of those countries. He urged the Italians to adopt a ruthless occupation policy in Yugoslavia and Greece.

He played an important part in Hitler's "final solution" of the Jewish question. In September 1942 he ordered the German diplomatic representatives accredited to various Axis satellites to hasten the deportation of Jews to the East. In June 1942 the German Ambassador to Vichy requested Laval to turn over 50,000 Jews for deportation to the East. On 25 February 1943 Von Ribbentrop protested to Mussolini against Italian slowness in deporting Jews from the Italian occupation zone of France. On 17 April 1943 he took part in a conference between Hitler and Horthy on the deportation of Jews from Hungary and informed Horthy that the "Jews must either be exterminated or taken to concentration camps." At the same conference Hitler had likened the Jews to "tuberculosis bacilli" and said if they did not work they were to be shot.

Von Ribbentrop's defense to the charges made against him is that Hitler made all the important decisions and that he was such a great admirer and faithful follower of Hitler that he never questioned Hitler's repeated assertions that he wanted peace or the truth of the reasons that Hitler gave in explaining aggressive action. The Tribunal does not consider this explanation to be true. Von Ribbentrop participated in all of the Nazi aggressions from the occupation of Austria to the invasion of the Soviet Union. Although he was personally concerned with the diplomatic rather than the military aspect of these actions, his diplomatic efforts were so closely connected with war that he could not have remained unaware of the aggressive nature of Hitler's actions. In the administration of territories over which Germany acquired control by illegal invasion Von Ribbentrop also assisted in carrying out criminal policies, particularly those involving the extermination of the Jews. There is abundant evidence, moreover, that Von Ribbentrop was in complete

sympathy with all the main tenets of the National Socialist creed, and that his collaboration with Hitler and with other defendants in the commission of Crimes against Peace, War Crimes, and Crimes against Humanity was whole-hearted. It was because Hitler's policy and plans coincided with his own ideas that Von Ribbentrop served him so willingly to the end.

Conclusion

The Tribunal finds that Von Ribbentrop is guilty on all four Counts.

KEITEL

Keitel is indicted on all four Counts. He was Chief of Staff to the then Minister of War Von Blomberg from 1935 to 4 February 1938; on that day Hitler took command of the Armed Forces, making Keitel Chief of the High Command of the Armed Forces. Keitel did not have command authority over the three Wehrmacht branches which enjoyed direct access to the Supreme Commander. OKW was in effect Hitler's military staff.

Crimes against Peace

Keitel attended the Schuschnigg conference in February 1938 with two other generals. Their presence, he admitted, was a "military demonstration," but since he had been appointed OKW Chief just one week before he had not known why he had been summoned. Hitler and Keitel then continued to put pressure on Austria with false rumors, broadcasts, and troop maneuvers. Keitel made the military and other arrangements, and Jodl's diary noted "the effect is quick and strong." When Schuschnigg called his plebiscite, Keitel that night briefed Hitler and his generals, and Hitler issued "Case Otto" which Keitel initialed.

On 21 April 1938 Hitler and Keitel considered making use of a possible "incident," such as the assassination of the German Minister at Prague, to preface the attack on Czechoslovakia. Keitel signed many directives and memoranda on "Fall Gruen", including the directive of 30 May containing Hitler's statement: "It is my unalterable decision to smash Czechoslovakia by military action in the near future." After Munich, Keitel initialed Hitler's directive for the attack on Czechoslovakia, and issued two supplements. The second supplement said the attack should appear to the outside world as "merely an act of pacification and not a warlike undertaking." The OKW Chief attended Hitler's negotiations with Hacha when the latter surrendered.

Keitel was present on 23 May 1939 when Hitler announced his decision "to attack Poland at the first suitable opportunity". Already

he had signed the directive requiring the Wehrmacht to submit its "Fall Weiss" timetable to OKW by 1 May.

The invasion of Norway and Denmark he discussed on 12 December 1939 with Hitler, Jodl, and Raeder. By directive of 27 January 1940 the Norway plans were placed under Keitel's "direct and personal guidance." Hitler had said on 23 May 1939 he would ignore the neutrality of Belgium and the Netherlands, and Keitel signed orders for these attacks on 15 October, 20 November, and 28 November 1939. Orders postponing this attack 17 times until spring all were signed by Keitel or Jodl.

Formal planning for attacking Greece and Yugoslavia had begun in November 1940. On 18 March 1941 Keitel heard Hitler tell Raeder complete occupation of Greece was a prerequisite to settlement, and also heard Hitler decree on 27 March that the destruction of Yugoslavia should take place with "unmerciful harshness."

Keitel testified that he opposed the invasion of the Soviet Union for military reasons, and also because it would constitute a violation of the Non-aggression Pact. Nevertheless he initialed "Case Barbarossa," signed by Hitler on 18 December 1940, and attended the OKW discussion with Hitler on 3 February 1941. Keitel's supplement of 13 March established the relationship between the military and political officers. He issued his timetable for the invasion on 6 June 1941, and was present at the briefing of 14 June when the generals gave their final reports before attack. He appointed Jodl and Warlimont as OKW representatives to Rosenberg on matters concerning the Eastern Territories. On 16 June he directed all army units to carry out the economic directives issued by Göring in the so-called "Green Folder," for the exploitation of Russian territory, food, and raw materials.

War Crimes and Crimes against Humanity

On 4 August 1942 Keitel issued a directive that paratroopers were to be turned over to the SD. On 18 October Hitler issued the Commando Order which was carried out in several instances. After the landing in Normandy, Keitel reaffirmed the order, and later extended it to Allied missions fighting with partisans. He admits he did not believe the order was legal but claims he could not stop Hitler from decreeing it.

When, on 8 September 1941, OKW issued its ruthless regulations for the treatment of Soviet POW's, Canaris wrote to Keitel that under international law the SD should have nothing to do with this matter. On this memorandum in Keitel's handwriting, dated 23 September and initialed by him, is the statement:

> "The objections arise from the military concept of chivalrous warfare. This is the destruction of an ideology. Therefore I approve and back the measures."

Keitel testified that he really agreed with Canaris and argued with Hitler, but lost. The OKW Chief directed the military authorities to cooperate with the Einsatzstab Rosenberg in looting cultural property in occupied territories.

Lahousen testified that Keitel told him on 12 September 1939, while aboard Hitler's headquarters train, that the Polish intelligentsia, nobility, and Jews were to be liquidated. On 20 October, Hitler told Keitel the intelligentsia would be prevented from forming a ruling class, the standard of living would remain low, and Poland would be used only for labor forces. Keitel does not remember the Lahousen conversation, but admits there was such a policy and that he had protested without effect to Hitler about it.

On 16 September 1941 Keitel ordered that attacks on soldiers in the East should be met by putting to death 50 to 100 Communists for one German soldier, with the comment that human life was less than nothing in the East. On 1 October he ordered military commanders always to have hostages to execute when soldiers were attacked. When Terboven, the Reich Commissioner in Norway, wrote Hitler that Keitel's suggestion that workmen's relatives be held responsible for sabotage, could work only if firing squads were authorized, Keitel wrote on this memorandum: "Yes, that is the best."

On 12 May 1941, five weeks before the invasion of the Soviet Union, OKW urged upon Hitler a directive of OKH that political commissars be liquidated by the Army. Keitel admitted the directive was passed on to field commanders. And on 13 May Keitel signed an order that civilians suspected of offenses against troops should be shot without trial, and that prosecution of German soldiers for offenses against civilians was unnecessary. On 27 July all copies of this directive were ordered destroyed without affecting its validity. Four days previously he had signed another order that legal punishment was inadequate and troops should use terrorism.

On 7 December 1941, as already discussed in this opinion, the so-called "Nacht und Nebel" Decree, over Keitel's signature, provided that in occupied territories civilians who had been accused of crimes of resistance against the army of occupation would be tried only if a death sentence was likely; otherwise they would be handed to the Gestapo for transportation to Germany.

Keitel directed that Russian POW's be used in German war industry. On 8 September 1942 he ordered French, Dutch, and Belgian citizens to work on the construction of the Atlantic Wall. He was present on 4 January 1944 when Hitler directed Sauckel to obtain 4 million new workers from occupied territories.

In the face of these documents Keitel does not deny his connection with these acts. Rather, his defense relies on the fact that he is

a soldier, and on the doctrine of "superior orders", prohibited by Article 8 of the Charter as a defense.

There is nothing in mitigation. Superior orders, even to a soldier, cannot be considered in mitigation where crimes as shocking and extensive have been committed consciously, ruthlessly, and without military excuse or justification.

Conclusion

The Tribunal finds Keitel guilty on all four Counts.

KALTENBRUNNER

Kaltenbrunner is indicted under Counts One, Three, and Four. He joined the Austrian Nazi Party and the SS in 1932. In 1935 he became leader of the SS in Austria. After the Anschluss he was appointed Austrian State Secretary for Security and when this position was abolished in 1941 he was made Higher SS and Police Leader. On 30 January 1943 he was appointed Chief of the Security Police and SD and Head of the Reich Security Head Office (RSHA), a position which had been held by Heydrich until his assassination in June 1942. He held the rank of Obergruppenführer in the SS.

Crimes against Peace

As leader of the SS in Austria Kaltenbrunner was active in the Nazi intrigue against the Schuschnigg Government. On the night of 11 March 1938, after Göring had ordered Austrian National Socialists to seize control of the Austrian Government, 500 Austrian SS men under Kaltenbrunner's command surrounded the Federal Chancellery and a special detachment under the command of his adjutant entered the Federal Chancellery while Seyss-Inquart was negotiating with President Miklas. But there is no evidence connecting Kaltenbrunner with plans to wage aggressive war on any other front. The Anschluss, although it was an aggressive act, is not charged as an aggressive war, and the evidence against Kaltenbrunner under Count One does not, in the opinion of the Tribunal, show his direct participation in any plan to wage such a war.

War Crimes and Crimes against Humanity

When he became Chief of the Security Police and SD and Head of the RSHA on 30 January 1943, Kaltenbrunner took charge of an organization which included the main offices of the Gestapo, the SD, and the Criminal Police. As Chief of the RSHA, Kaltenbrunner had authority to order protective custody to and release from concentration camps. Orders to this effect were normally sent over his signature. Kaltenbrunner was aware of conditions in concentration

camps. He had undoubtedly visited Mauthausen and witnesses testified that he had seen prisoners killed by the various methods of execution, hanging, shooting in the back of the neck, and gassing, as part of a demonstration. Kaltenbrunner himself ordered the execution of prisoners in those camps and his office was used to transmit to the camps execution orders which originated in Himmler's office. At the end of the war Kaltenbrunner participated in the arrangements for the evacuation of inmates of concentration camps, and the liquidation of many of them, to prevent them from being liberated by the Allied armies.

During the period in which Kaltenbrunner was Head of the RSHA, it was engaged in a widespread program of War Crimes and Crimes against Humanity. These crimes included the mistreatment and murder of prisoners of war. Einsatz Kommandos operating under the control of the Gestapo were engaged in the screening of Soviet prisoners of war. Jews, commissars, and others who were thought to be ideologically hostile to the Nazi system were reported to the RSHA, which had them transferred to a concentration camp and murdered. An RSHA order issued during Kaltenbrunner's regime established the "Bullet Decree," under which certain escaped prisoners of war who were recaptured were taken to Mauthausen and shot. The order for the execution of commando troops was extended by the Gestapo to include parachutists while Kaltenbrunner was Chief of the RSHA. An order signed by Kaltenbrunner instructed the police not to interfere with attacks on bailed-out Allied fliers. In December 1944 Kaltenbrunner participated in the murder of one of the French generals held as a prisoner of war.

During the period in which Kaltenbrunner was head of the RSHA, the Gestapo and SD in occupied territories continued the murder and ill-treatment of the population, using methods which included torture and confinement in concentration camps, usually under orders to which Kaltenbrunner's name was signed.

The Gestapo was responsible for enforcing a rigid labor discipline on the slave laborers and Kaltenbrunner established a series of labor reformatory camps for this purpose. When the SS embarked on a slave labor program of its own, the Gestapo was used to obtain the needed workers by sending laborers to concentration camps.

The RSHA played a leading part in the "final solution" of the Jewish question by the extermination of the Jews. A special section under the Amt IV of the RSHA was established to supervise this program. Under its direction approximately 6 million Jews were murdered, of which 2 million were killed by Einsatzgruppen and other units of the Security Police. Kaltenbrunner had been informed of the activities of these Einsatzgruppen when he was a Higher SS

and Police Leader, and they continued to function after he had become Chief of the RSHA.

The murder of approximately 4 million Jews in concentration camps has heretofore been described. This part of the program was also under the supervision of the RSHA when Kaltenbrunner was head of that organization, and special missions of the RSHA scoured the occupied territories and the various Axis satellites arranging for the deportation of Jews to these extermination institutions. Kaltenbrunner was informed of these activities. A letter which he wrote on 30 June 1944 described the shipment to Vienna of 12,000 Jews for that purpose, and directed that all who could not work would have to be kept in readiness for "special action," which meant murder. Kaltenbrunner denied his signature to this letter, as he did on a very large number of orders on which his name was stamped or typed, and, in a few instances, written. It is inconceivable that in matters of such importance his signature could have appeared so many times without his authority.

Kaltenbrunner has claimed that when he took office as Chief of the Security Police and SD and as Head of the RSHA he did so pursuant to an understanding with Himmler under which he was to confine his activities to matters involving foreign intelligence, and not to assume over-all control over the activities of the RSHA. He claims that the criminal program had been started before his assumption of office; that he seldom knew what was going on; and that when he was informed he did what he could to stop them. It is true that he showed a special interest in matters involving foreign intelligence. But he exercised control over the activities of the RSHA, was aware of the crimes it was committing, and was an active participant in many of them.

Conclusion.

The Tribunal finds that Kaltenbrunner is not guilty on Count One. He is guilty under Counts Three and Four.

ROSENBERG

Rosenberg is indicted on all four Counts. He joined the Nazi Party in 1919, participated in the Munich Putsch of 9 November 1923, and tried to keep the illegal Nazi Party together while Hitler was in jail. Recognized as the Party's ideologist, he developed and spread Nazi doctrines in the newspapers *Völkischer Beobachter* and *NS Monatshefte,* which he edited, and in the numerous books he wrote. His book, *Myth of the Twentieth Century,* had a circulation of over a million copies.

In 1930 Rosenberg was elected to the Reichstag and he became the Party's representative for Foreign Affairs. In April 1933 he

was made Reichsleiter and head of the Office of Foreign Affairs of the NSDAP (the APA). Hitler, in January 1934, appointed Rosenberg his deputy for the supervision of the entire spiritual and ideological training of the NSDAP. In January 1940, he was designated to set up the "Hohe Schule," the Center of National Socialistic Ideological and Educational Research, and he organized the "Einsatzstab Rosenberg" in connection with this task. He was appointed Reich Minister for the Occupied Eastern Territories on 17 July 1941.

Crimes Against Peace.

As head of the APA, Rosenberg was in charge of an organization whose agents were active in Nazi intrigue in all parts of the world. His own reports, for example, claim that the APA was largely responsible for Rumania's joining the Axis. As head of the APA, he played an important role in the preparation and planning of the attack on Norway.

Rosenberg, together with Raeder, was one of the originators of the plan for attacking Norway. Rosenberg had become interested in Norway as early as June 1939, when he conferred with Quisling. Quisling had pointed out the importance of the Norwegian coast in the event of a conflict between Germany and Great Britain, and stated his fears that Great Britain might be able to obtain Norwegian assistance. As a result of this conference Rosenberg arranged for Quisling to collaborate closely with the National Socialists and to receive political assistance by the Nazis.

When the war broke out Quisling began to express fear of British intervention in Norway. Rosenberg supported this view, and transmitted to Raeder a plan to use Quisling for a *coup* in Norway. Rosenberg was instrumental in arranging the conferences in December 1939 between Hitler and Quisling which led to the preparation of the attack on Norway, and at which Hitler promised Quisling financial assistance. After these conferences Hitler assigned to Rosenberg the political exploitation of Norway. Two weeks after Norway was occupied, Hitler told Rosenberg that he had based his decision to attack Norway "on the continuous warnings of Quisling as reported to him by Reichsleiter Rosenberg."

Rosenberg bears a major responsibility for the formulation and execution of occupation policies in the Occupied Eastern Territories. He was informed by Hitler on 2 April 1941 of the coming attack against the Soviet Union, and he agreed to help in the capacity of a "Political Adviser." On 20 April 1941 he was appointed Commissioner for the Central Control of Questions Connected with the East-European Region. In preparing the plans for the occupation, he had numerous conferences with Keitel, Raeder, Göring, Funk, Von Ribbentrop, and other high Reich authorities. In April and

May 1941 he prepared several drafts of instructions concerning the setting up of the administration in the Occupied Eastern Territories. On 20 June 1941, two days before the attack on the U.S.S.R., he made a speech to his assistants about the problems and policies of occupation. Rosenberg attended Hitler's conference of 16 July 1941, in which policies of administration and occupation were discussed. On 17 July 1941 Hitler appointed Rosenberg Reich Minister for the Occupied Eastern Territories, and publicly charged him with responsibility for civil administration.

War Crimes and Crimes against Humanity

Rosenberg is responsible for a system of organized plunder of both public and private property throughout the invaded countries of Europe. Acting under Hitler's orders of January 1940 to set up the "Hohe Schule", he organized and directed the "Einsatzstab Rosenberg", which plundered museums and libraries, confiscated art treasures and collections, and pillaged private houses. His own reports show the extent of the confiscations. In "Action-M" (Möbel), instituted in December 1941 at Rosenberg's suggestion, 69,619 Jewish homes were plundered in the West, 38,000 of them in Paris alone, and it took 26,984 railroad cars to transport the confiscated furnishings to Germany. As of 14 July 1944, more than 21,903 art objects including famous paintings and museum pieces, had been seized by the Einsatzstab in the West.

With his appointment as Reich Minister for Occupied Eastern Territories on 17 July 1941, Rosenberg became the supreme authority for those areas. He helped to formulate the policies of Germanization, exploitation, forced labor, extermination of Jews and opponents of Nazi rule, and he set up the administration which carried them out. He took part in the conference of 16 July 1941, in which Hitler stated that they were faced with the task of "cutting up the giant cake according to our needs, in order to be able: first, to dominate it; second, to administer it; and third, to exploit it", and indicated that ruthless action was contemplated. Rosenberg accepted his appointment on the following day.

Rosenberg had knowledge of the brutal treatment and terror to which the Eastern people were subjected. He directed that the Hague Rules of Land Warfare were not applicable in the Occupied Eastern Territories. He had knowledge of and took an active part in stripping the Eastern Territories of raw materials and foodstuffs, which were all sent to Germany. He stated that feeding the German People was first on the list of claims on the East, and that the Soviet People would suffer thereby. His directives provided for the segregation of Jews, ultimately in ghettos. His subordinates engaged in mass killings of Jews, and his civil administrators in the East considered that cleansing the Eastern Occupied Territories of

Jews was necessary. In December 1941 he made the suggestion to Hitler that in a case of shooting 100 hostages, Jews only be used. Rosenberg had knowledge of the deportation of laborers from the East, of the methods of "recruiting" and the transportation horrors, and of the treatment Eastern laborers received in the Reich. He gave his civil administrators quotas of laborers to be sent to the Reich, which had to be met by whatever means necessary. His signature of approval appears on the order of 14 June 1944 for the "Heu Aktion", the apprehension of 40,000 to 50,000 youths, aged 10-14, for shipment to the Reich.

Upon occasion Rosenberg objected to the excesses and atrocities committed by his subordinates, notably in the case of Koch, but these excesses continued and he stayed in office until the end.

Conclusion.

The Tribunal finds that Rosenberg is guilty on all four Counts.

FRANK

Frank is indicted under Counts One, Three, and Four. Frank joined the Nazi Party in 1927. He became a member of the Reichstag in 1930, the Bavarian State Minister of Justice in March 1933, and when this position was incorporated into the Reich Government in 1934, Reich Minister without Portfolio. He was made a Reichsleiter of the Nazi Party in charge of Legal Affairs in 1933, and in the same year President of the Academy of German Law. Frank was also given the honorary rank of Obergruppenführer in the SA. In 1942 Frank became involved in a temporary dispute with Himmler as to the type of legal system which should be in effect in Germany. During the same year he was dismissed as Reichsleiter of the Nazi Party and as President of the Academy of German Law.

Crimes against Peace

The evidence has not satisfied the Tribunal that Frank was sufficiently connected with the common plan to wage aggressive war to allow the Tribunal to convict him on Count One.

War Crimes and Crimes against Humanity

Frank was appointed Chief Civil Administration Officer for occupied Polish territory and, on 12 October 1939, was made Governor General of the occupied Polish territory. On 3 October 1939 he described the policy which he intended to put into effect by stating: "Poland shall be treated like a colony; the Poles will become the slaves of the Greater German World Empire." The evidence establishes that this occupation policy was based on the complete destruction of Poland as a national entity, and a ruthless exploitation of its human and economic resources for the German war effort.

All opposition was crushed with the utmost harshness. A reign of terror was instituted, backed by summary police courts which ordered such actions as the public shootings of groups of 20 to 200 Poles, and the widespread shootings of hostages. The concentration camp system was introduced in the General Government by the establishment of the notorious Treblinka and Maidaneck camps. As early as 6 February 1940, Frank gave an indication of the extent of this reign of terror by his cynical comment to a newspaper reporter on Von Neurath's poster announcing the execution of the Czech students: "If I wished to order that one should hang up posters about every seven Poles shot, there would not be enough forests in Poland with which to make the paper for these posters." On 30 May 1940 Frank told a police conference that he was taking advantage of the offensive in the West which diverted the attention of the world from Poland to liquidate thousands of Poles who would be likely to resist German domination of Poland, including "the leading representatives of the Polish intelligentsia." Pursuant to these instructions the brutal A.B. action was begun under which the Security Police and SD carried out these exterminations which were only partially subjected to the restraints of legal procedure. On 2 October 1943 Frank issued a decree under which any non-Germans hindering German construction in the General Government were to be tried by summary courts of the Security Police and SD and sentenced to death.

The economic demands made on the General Government were far in excess of the needs of the army of occupation, and were out of all proportion to the resources of the country. The food raised in Poland was shipped to Germany on such a wide scale that the rations of the population of the occupied territories were reduced to the starvation level, and epidemics were widespread. Some steps were taken to provide for the feeding of the agricultural workers who were used to raise the crops, but the requirements of the rest of the population were disregarded. It is undoubtedly true, as argued by counsel for the Defense, that some suffering in the General Government was inevitable as a result of the ravages of war and the economic confusion resulting therefrom. But the suffering was increased by a planned policy of enonomic exploitation.

Frank introduced the deportation of slave laborers to Germany in the very early stages of his administration. On 25 January 1940 he indicated his intention of deporting 1 million laborers to Germany, suggesting on 10 May 1940 the use of police raids to meet this quota. On 18 August 1942 Frank reported that he had already supplied 800,000 workers for the Reich, and expected to be able to supply 140,000 more before the end of the year.

The persecution of the Jews was immediately begun in the General Government. The area originally contained from 2½ mil-

lion to 3½ million Jews. They were forced into ghettos, subjected to discriminatory laws, deprived of the food necessary to avoid starvation, and finally systematically and brutally exterminated. On 16 December 1941 Frank told the Cabinet of the Governor General: "We must annihilate the Jews, wherever we find them and wherever it is possible, in order to maintain there the structure of the Reich as a whole." By 25 January 1944, Frank estimated that there were only 100,000 Jews left.

At the beginning of his testimony, Frank stated that he had a feeling of "terrible guilt" for the atrocities committed in the occupied territories. But his defense was largely devoted to an attempt to prove that he was not in fact responsible; that he ordered only the necessary pacification measures; that the excesses were due to the activities of the police which were not under his control; and that he never even knew of the activities of the concentration camps. It had also been argued that the starvation was due to the aftermath of the war and policies carried out under the Four Year Plan; that the forced labor program was under the direction of Sauckel; and that the extermination of the Jews was by the police and SS under direct orders from Himmler.

It is undoubtedly true that most of the criminal program charged against Frank was put into effect through the police, that Frank had jurisdictional difficulties with Himmler over the control of the police, and that Hitler resolved many of these disputes in favor of Himmler. It therefore may well be true that some of the crimes committed in the General Government were committed without the knowledge of Frank, and even occasionally despite his opposition. It may also be true that some of the criminal policies put into effect in the General Government did not vriginale with Frank but were carried out pursuant to orders from Germany. But it is also true that Frank was a willing and knowing participant in the use of terrorism in Poland; in the economic exploitation of Poland in a way which led to the death by starvation of a large number of people; in the deportation to Germany as slave laborers of over a million Poles; and in a program involving the murder of at least 3 million Jews.

Conclusion

The Tribunal finds that Frank is not guilty on Count One but guilty under Counts Three and Four.

FRICK

Frick is indicted on all four Counts. Recognized as the chief Nazi administrative specialist and bureaucrat, he was appointed Reichsminister of the Interior in Hitler's first Cabinet. He retained this important position until August 1943, when he was appointed Reich

Protector of Bohemia and Moravia. In connection with his duties at the center of all internal and domestic administration, he became the Prussian Minister of the Interior, Reich Director of Elections, General Plenipotentiary for the Administration of the Reich, and a member of the Reich Defense Council, the Ministerial Council for Defense of the Reich, and the "Three Man College". As the several countries incorporated into the Reich were overrun, he was placed at the head of the central offices for their incorporation.

Though Frick did not officially join the Nazi Party until 1925, he had previously allied himself with Hitler and the National Socialist cause during the Munich Putsch, while he was an official in the Munich Police Department. Elected to the Reichstag in 1924, he became a Reichsleiter as leader of the National Socialist faction in that body.

Crimes against Peace

An avid Nazi, Frick was largely responsible for bringing the German Nation under the complete control of the NSDAP. After Hitler became Reich Chancellor, the new Minister of the Interior immediately began to incorporate local governments under the sovereignty of the Reich. The numerous laws he drafted, signed, and administered abolished all opposition parties and prepared the way for the Gestapo and their concentration camps to extinguish all individual opposition. He was largely responsible for the legislation which suppressed the trade unions, the church, the Jews. He performed this task with ruthless efficiency.

Before the date of the Austrian aggression Frick was concerned only with domestic administration within the Reich. The evidence does not show that he participated in any of the conferences at which Hitler outlined his aggressive intentions. Consequently the Tribunal takes the view that Frick was not a member of the common plan or conspiracy to wage aggressive war as defined in this Judgment.

Six months after the seizure of Austria, under the provisions of the Reich Defense Law of 4 September 1938, Frick became General Plenipotentiary for the Administration of the Reich. He was made responsible for war administration, except the military and economic, in the event of Hitler's proclaiming a state of defense. The Reich Ministries of Justice, Education, Religion, and the Office of Spatial Planning were made subordinate to him. Performing his allotted duties, Frick devised an administrative organization in accordance with wartime standards. According to his own statement, this was actually put into operation after Germany decided to adopt a policy of war.

Frick signed the law of 13 March 1938 which united Austria with the Reich, and he was made responsible for its accomplishment. In

setting up German administration in Austria, he issued decrees which introduced German law, the Nuremberg decrees, the Military Service Law, and he provided for police security by Himmler.

He also signed the laws incorporating into the Reich the Sudetenland, Memel, Danzig, the Eastern territories (West Prussia and Posen), and Eupen, Malmedy, and Moresnot. He was placed in charge of the actual incorporation, and of the establishment of German administration over these territories. He signed the law establishing the Protectorate of Bohemia and Moravia.

As the head of the Central Offices for Bohemia and Moravia, the Government General, and Norway, he was charged with obtaining close cooperation between the German officials in these occupied countries and the supreme authorities of the Reich. He supplied German civil servants for the administrations in all occupied territories, advising Rosenberg as to their assignment in the Occupied Eastern Territories. He signed the laws appointing Terboven Reich Commissioner to Norway and Seyss-Inquart to Holland.

War Crimes and Crimes against Humanity

Always rabidly anti-Semitic, Frick drafted, signed, and administered many laws designed to eliminate Jews from German life and economy. His work formed the basis of the Nuremberg Decrees, and he was active in enforcing them. Responsible for prohibiting Jews from following various professions, and for confiscating their property, he signed a final decree in 1943, after the mass destruction of Jews in the East, which placed them "outside the law" and handed them over to the Gestapo. These laws paved the way for the "final solution", and were extended by Frick to the incorporated territories and to certain of the occupied territories. While he was Reich Protector of Bohemia and Moravia, thousands of Jews were transferred from the Terezin Ghetto in Czechoslovakia to Auschwitz, where they were killed. He issued a decree providing for special penal laws against Jews and Poles in the Government General.

The police officially fell under the jurisdiction of the Reichsminister of the Interior. But Frick actually exercised little control over Himmler and police matters. However, he signed the law appointing Himmler Chief of the German Police, as well as the decrees establishing Gestapo jurisdiction over concentration camps and regulating the execution of orders for protective custody. From the many complaints he received, and from the testimony of witnesses, the Tribunal concludes that he knew of atrocities committed in these camps. With knowledge of Himmler's methods, Frick signed decrees authorizing him to take necessary security measures in certain of the incorporated territories. What these "security measures" turned out to be has already been dealt with.

As the Supreme Reich Authority in Bohemia and Moravia, Frick bears general responsibility for the acts of oppression in that territory after 20 August 1943, such as terrorism of the population, slave labor, and the deportation of Jews to the concentration camps for extermination. It is true that Frick's duties as Reich Protector were considerably more limited than those of his predecessor, and that he had no legislative and limited personal executive authority in the Protectorate. Nevertheless, Frick knew full well what the Nazi policies of occupation were in Europe, particularly with respect to Jews, at that time, and by accepting the office of Reich Protector he assumed responsibility for carrying out those policies in Bohemia and Moravia.

German citizenship in the occupied countries as well as in the Reich came under his jurisdiction while he was Minister of the Interior. Having created a racial register of persons of German extraction, Frick conferred German citizenship on certain groups of citizens of foreign countries. He is responsible for Germanization in Austria, Sudetenland, Memel, Danzig, Eastern territories (West Prussia and Posen), and Eupen, Malmedy, and Moresnot. He forced on the citizens of these territories, German law, German courts, German education, German police security, and compulsory military service.

During the war nursing homes, hospitals, and asylums in which euthanasia was practiced as described elsewhere in this Judgment, came under Frick's jurisdiction. He had knowledge that insane, sick, and aged people, "useless eaters", were being systematically put to death. Complaints of these murders reached him, but he did nothing to stop them. A report of the Czechoslovak War Crimes Commission estimated that 275,000 mentally deficient and aged people, for whose welfare he was responsible, fell victim to it.

Conclusion

The Tribunal finds that Frick is not guilty on Count One. He is guilty on Counts Two, Three, and Four.

STREICHER

Streicher is indicted on Counts One and Four. One of the earliest members of the Nazi Party, joining in 1921, he took part in the Munich Putsch. From 1925 to 1940 he was Gauleiter of Franconia. Elected to the Reichstag in 1933, he was an honorary general in the SA. His persecution of the Jews was notorious. He was the publisher of *Der Stürmer*, an anti-Semitic weekly newspaper, from 1923 to 1945 and was its editor until 1933.

Crimes against Peace

Streicher was a staunch Nazi and supporter of Hitler's main policies. There is no evidence to show that he was ever within Hitler's inner circle of advisers; nor during his career was he closely connected with the formulation of the policies which led to war. He was never present, for example, at any of the important conferences when Hitler explained his decisions to his leaders. Although he was a Gauleiter there is no evidence to prove that he had knowledge of those policies. In the opinion of the Tribunal, the evidence fails to establish his connection with the conspiracy or common plan to wage aggressive war as that conspiracy has been elsewhere defined in this Judgment.

Crimes against Humanity

For his 25 years of speaking, writing, and preaching hatred of the Jews, Streicher was widely known as "Jew-Baiter Number One". In his speeches and articles, week after week, month after month, he infected the German mind with the virus of anti-Semitism, and incited the German People to active persecution. Each issue of *Der Stürmer,* which reached a circulation of 600,000 in 1935, was filled with such articles, often lewd and disgusting.

Streicher had charge of the Jewish boycott of 1 April 1933. He advocated the Nuremberg Decrees of 1935. He was responsible for the demolition on 10 August 1938, of the synagogue in Nuremberg. And on 10 November 1938 he spoke publicly in support of the Jewish pogrom which was taking place at that time.

But it was not only in Germany that this defendant advocated his doctrines. As early as 1938 he began to call for the annihilation of the Jewish race. Twenty-three different articles of *Der Stürmer* between 1938 and 1941 were produced in evidence, in which extermination "root and branch" was preached. Typical of his teachings was a leading article in September 1938 which termed the Jew a germ and a pest, not a human being, but "a parasite, an enemy, an evildoer, a disseminator of diseases who must be destroyed in the interest of mankind". Other articles urged that only when world Jewry had been annihilated would the Jewish problem have been solved, and predicted that 50 years hence the Jewish graves "will proclaim that this people of murderers and criminals has after all met its deserved fate". Streicher, in February 1940, published a letter from one of *Der Stürmer*'s readers which compared Jews with swarms of locusts which must be exterminated completely. Such was the poison Streicher injected into the minds of thousands of Germans which caused them to follow the National Socialist policy of Jewish persecution and extermination. A leading article of *Der Stürmer* in May 1939 shows clearly his aim:

"A punitive expedition must come against the Jews in Russia. A punitive expedition which will provide the same fate for them that every murderer and criminal must expect: Death sentence and execution. The Jews in Russia must be killed. They must be exterminated root and branch."

As the war in the early stages proved successful in acquiring more and more territory for the Reich, Streicher even intensified his efforts to incite the Germans against the Jews. In the record are 26 articles from *Der Stürmer*, published between August 1941 and September 1944, 12 by Streicher's own hand, which demanded annihilation and extermination in unequivocal terms.

He wrote and published on 25 December 1941:

"If the danger of the reproduction of that curse of God in the Jewish blood is finally to come to an end, then there is only one way—the extermination of that people whose father is the devil."

And in February 1944 his own article stated:

"Whoever does what a Jew does is a scoundrel, a criminal. And he who repeats and wishes to copy him deserves the same fate, annihilation, death."

With knowledge of the extermination of the Jews in the Occupied Eastern Territory, this defendant continued to write and publish his propaganda of death. Testifying in this trial, he vehemently denied any knowledge of mass executions of Jews. But the evidence makes it clear that he continually received current information on the progress of the "final solution". His press photographer was sent to visit the ghettos of the East in the spring of 1943, the time of the destruction of the Warsaw ghetto. The Jewish newspaper, *Israelitisches Wochenblatt,* which Streicher received and read, carried in each issue accounts of Jewish atrocities in the East, and gave figures on the number of Jews who had been deported and killed. For example, issues appearing in the summer and fall of 1942 reported the death of 72,729 Jews in Warsaw, 17,542 in Lodz, 18,000 in Croatia, 125,000 in Rumania, 14,000 in Latvia, 85,000 in Yugoslavia, 700,000 in all of Poland. In November 1943 Streicher quoted verbatim an article from the *Israelitisches Wochenblatt* which stated that the Jews had virtually disappeared from Europe, and commented "This is not a Jewish lie." In December 1942, referring to an article in the *London Times* about the atrocities, aiming at extermination, Streicher said that Hitler had given warning that the second World War would lead to the destruction of Jewry. In January 1943 he wrote and published an article which said that Hitler's prophecy was being fulfilled, that world Jewry was being extirpated, and that it was wonderful to know that Hitler was freeing the world of its Jewish tormentors.

In the face of the evidence before the Tribunal it is idle for Streicher to suggest that the solution of the Jewish problem which he favored was strictly limited to the classification of Jews as aliens, and the passing of discriminatory legislation such as the Nuremberg Laws, supplemented if possible by international agreement on the creation of a Jewish State somewhere in the world, to which all Jews should emigrate.

Streicher's incitement to murder and extermination at the time when Jews in the East were being killed under the most horrible conditions clearly constitutes persecution on political and racial grounds in connection with War Crimes, as defined by the Charter, and constitutes a Crime against Humanity.

Conclusion

The Tribunal finds that Streicher is not guilty on Count One, but that he is guilty on Count Four.

FUNK

Funk is indicted under all four Counts. Funk, who had previously been a financial journalist, joined the Nazi Party in 1931, and shortly thereafter became one of Hitler's personal economic advisers. On 30 January 1933 Funk was made Press Chief in the Reich Government, and on 11 March 1933 became Under Secretary in the Ministry of Propaganda and shortly thereafter a leading figure in the various Nazi organizations which were used to control the press, films, music, and publishing houses. He took office as Minister of Economics and Plenipotentiary General for War Economy in early 1938 and as President of the Reichsbank in January 1939. He succeeded Schacht in all three of these positions. He was made a member of the Ministerial Council for the Defense of the Reich in August 1939, and a member of the Central Planning Board in September 1943.

Crimes against Peace

Funk became active in the economic field after the Nazi plans to wage aggressive war had been clearly defined. One of his representatives attended a conference on 14 October 1938, at which Göring announced a gigantic increase in armaments and instructed the Ministry of Economics to increase exports to obtain the necessary exchange. On 28 January 1939 one of Funk's subordinates sent a memorandum to the OKW on the use of prisoners of war to make up labor deficiencies which would arise in case of mobilization. On 30 May 1939 the Under Secretary of the Ministry of Economics attended a meeting at which detailed plans were made for the financing of the war.

On 25 August 1939 Funk wrote a letter to Hitler expressing his gratitude that he was able to participate in such world-shaking events; that his plans for the "financing of the war", for the control of wage and price conditions and for the strengthening of the Reichsbank had been completed; and that he had inconspicuously transferred into gold all foreign exchange resources available to Germany. On 14 October 1939, after the war had begun, he made a speech in which he stated that the economic and financial departments of Germany working under the Four Year Plan had been engaged in the secret economic preparation for war for over a year.

Funk participated in the economic planning which preceded the attack on the U.S.S.R. His deputy held daily conferences with Rosenberg on the economic problems which would arise in the occupation of Soviet territory. Funk himself participated in planning for the printing of ruble notes in Germany prior to the attack to serve as occupation currency in the U.S.S.R. After the attack he made a speech in which he described plans he had made for the economic exploitation of the "vast territories of the Soviet Union" which were to be used as a source of raw material for Europe.

Funk was not one of the leading figures in originating the Nazi plans for aggressive war. His activity in the economic sphere was under the supervision of Göring as Plenipotentiary General of the Four Year Plan. He did, however, participate in the economic preparation for certain of the aggressive wars, notably those against Poland and the Soviet Union, but his guilt can be adequately dealt with under Count Two of the Indictment.

War Crimes and Crimes against Humanity

In his capacity as Under Secretary in the Ministry of Propaganda and Vice-Chairman of the Reichs Chamber of Culture, Funk had participated in the early Nazi program of economic discrimination against the Jews. On 12 November 1938 after the pogroms of November, he attended a meeting held under the chairmanship of Göring to discuss the solution of the Jewish problem and proposed a decree providing for the banning of Jews from all business activities, which Göring issued the same day under the authority of the Four Year Plan. Funk has testified that he was shocked at the outbreaks of 10 November, but on 15 November he made a speech describing these outbreaks as a "violent explosion of the disgust of the German People, because of a criminal Jewish attack against the German People", and saying that the elimination of the Jews from economic life followed logically their elimination from political life.

In 1942 Funk entered into an agreement with Himmler under which the Reichsbank was to receive certain gold and jewels and currency from the SS and instructed his subordinates, who were

to work out the details, not to ask too many questions. As a result of this agreement the SS sent to the Reichsbank the personal belongings taken from the victims who had been exterminated in the concentration camps. The Reichsbank kept the coins and bank notes and sent the jewels, watches, and personal belongings to Berlin municipal pawn shops. The gold from the eyeglasses, and gold teeth and fillings was stored in the Reichsbank vaults. Funk has protested that he did not know that the Reichsbank was receiving articles of this kind. The Tribunal is of the opinion that he either knew what was being received or was deliberately closing his eyes to what was being done.

As Minister of Economics and President of the Reichsbank, Funk participated in the economic exploitation of occupied territories. He was president of the Continental Oil Company which was charged with the exploitation of the oil resources of occupied territories in the East. He was responsible for the seizure of the gold reserves of the Czechoslovakian National Bank and for the liquidation of the Yugoslavian National Bank. On 6 June 1942 his deputy sent a letter to the OKW requesting that funds from the French Occupation Cost Fund be made available for black market purchases. Funk's knowledge of German occupation policies is shown by his presence at the meeting of 8 August 1942, at which Göring addressed the various German occupation chiefs, told them of the products required from their territories, and added: "It makes no difference to me in this connection if you say that your people will starve."

In the fall of 1943 Funk was a member of the Central Planning Board which determined the total number of laborers needed for German industry, and required Sauckel to produce them, usually by deportation from occupied territories. Funk did not appear to be particularly interested in this aspect of the forced labor program, and usually sent a deputy to attend the meetings, often SS General Ohlendorf, the former Chief of the SD inside of Germany and the former Commander of Einsatzgruppe D. But Funk was aware that the Board of which he was a member was demanding the importation of slave laborers, and allocating them to the various industries under its control.

As President of the Reichsbank, Funk was also indirectly involved in the utilization of concentration camp labor. Under his direction the Reichsbank set up a revolving fund of 12,000,000 Reichsmarks to the credit of the SS for the construction of factories to use concentration camp laborers.

In spite of the fact that he occupied important official positions, Funk was never a dominant figure in the various programs in which he participated. This is a mitigating fact of which the Tribunal takes notice.

Conclusion

The Tribunal finds that Funk is not guilty on Count One but is guilty under Counts Two, Three, and Four.

SCHACHT

Schacht is indicted under Counts One and Two of the Indictment. Schacht served as Commissioner of Currency and President of the Reichsbank from 1923 to 1930, was reappointed President of the Bank on 17 March 1933, Minister of Economics in August 1934, and Plenipotentiary General for War Economy in May 1935. He resigned from these two positions in November 1937, and was appointed Minister without Portfolio. He was reappointed as President of the Reichsbank for a 1-year term on 16 March 1937, and for a 4-year term on 9 March 1938, but was dismissed on 20 January 1939. He was dismissed as Minister without Portfolio on 22 January 1943.

Crimes against Peace

Schacht was an active supporter of the Nazi Party before its accession to power on 30 January 1933, and supported the appointment of Hitler to the post of Chancellor. After that date he played an important role in the vigorous rearmament program which was adopted, using the facilities of the Reichsbank to the fullest extent in the German rearmament effort. The Reichsbank, in its traditional capacity as financial agent for the German Government, floated long-term Government loans, the proceeds of which were used for rearmament. He devised a system under which 5-year notes, known as Mefo bills, guaranteed by the Reichsbank and backed, in effect, by nothing more than its position as a bank of issue, were used to obtain large sums for rearmament from the short-term money market. As Minister of Economics and as Plenipotentiary General for War Economy he was active in organizing the German economy for war. He made detailed plans for industrial mobilization and the coordination of the Army with industry in the event of war. He was particularly concerned with shortages of raw materials and started a scheme of stock-piling, and a system of exchange control designed to prevent Germany's weak foreign exchange position from hindering the acquisition abroad of raw materials needed for rearmament. On 3 May 1935 he sent a memorandum to Hitler stating that "the accomplishment of the armament program with speed and in quantity is the problem of German politics, that everything else therefore should be subordinated to this purpose."

Schacht, by April 1936, began to lose his influence as the central figure in the German rearmament effort when Göring was appointed Coordinator for Raw Materials and Foreign Exchange. Göring advocated a greatly expanded program for the production of synthetic raw materials which was opposed by Schacht on the ground that

the resulting financial strain might involve inflation. The influence of Schacht suffered further when, on 16 October 1936, Göring was appointed Plenipotentiary for the Four Year Plan with the task of putting "the entire economy in a state of readiness for war" within four years. Schacht had opposed the announcement of this plan and the appointment of Göring to head it, and it is clear that Hitler's action represented a decision that Schacht's economic policies were too conservative for the drastic rearmament policy which Hitler wanted to put into effect.

After Göring's appointment, Schacht and Göring promptly became embroiled in a series of disputes. Although there was an element of personal controversy running through these disputes, Schacht disagreed with Göring on certain basic policy issues. Schacht, on financial grounds, advocated a retrenchment in the rearmament program, opposed as uneconomical much of the proposed expansion of production facilities, particularly for synthetics, urged a drastic tightening on Government credit and a cautious policy in dealing with Germany's foreign exchange reserves. As a result of this dispute and of a bitter argument in which Hitler accused Schacht of upsetting his plans by his financial methods, Schacht went on leave of absence from the Ministry of Economics on 5 September 1937, and resigned as Minister of Economics and as Plenipotentiary General for War Economy on 16 November 1937.

As President of the Reichsbank Schacht was still involved in disputes. Throughout 1938 the Reichsbank continued to function as the financial agent for the German Government in floating long-term loans to finance armaments. But on 32 March 1938 Schacht discontinued the practice of floating short-term notes guaranteed by the Reichsbank for armament expenditures. At the end of 1938, in an attempt to regain control of fiscal policy through the Reichsbank, Schacht refused an urgent request of the Reichsminister of Finance for a special credit to pay the salaries of civil servants which were not covered by existing funds. On 2 January 1939 Schacht held a conference with Hitler at which he urged him to reduce expenditures for armaments. On 7 January 1939 Schacht submitted to Hitler a report signed by the Directors of the Reichsbank which urged a drastic curtailment of armament expenditures and a balanced budget as the only method of preventing inflation. On 19 January Hitler dismissed Schacht as President of the Reichsbank. On 22 January 1943 Hitler dismissed Schacht as Reichsminister without Portfolio, because of his "whole attitude during the present fateful fight of the German Nation." On 23 July 1944 Schacht was arrested by the Gestapo and confined in a concentration camp until the end of the war.

It is clear that Schacht was a central figure in Germany's rearmament program, and the steps which he took, particularly in the

early days of the Nazi regime, were responsible for Nazi Germany's rapid rise as a military power. But rearmament of itself is not criminal under the Charter. To be a Crime against Peace under Article 6 of the Charter it must be shown that Schacht carried out this rearmament as part of the Nazi plans to wage aggressive wars.

Schacht has contended that he participated in the rearmament program only because he wanted to build up a strong and independent Germany which would carry out a foreign policy which would command respect on an equal basis with other European countries; that when he discovered that the Nazis were rearming for aggressive purposes he attempted to slow down the speed of rearmament; and that after the dismissal of Von Fritsch and Von Blomberg he participated in plans to get rid of Hitler, first by deposing him and later by assassination.

Schacht, as early as 1936, began to advocate a limitation of the rearmament program for financial reasons. Had the policies advocated by him been put into effect, Germany would not have been prepared for a general European war. Insistence on his policies led to his eventual dismissal from all positions of economic significance in Germany. On the other hand, Schacht, with his intimate knowledge of German finance, was in a peculiarly good position to understand the true significance of Hitler's frantic rearmament, and to realize that the economic policy adopted was consistent only with war as its object.

Moreover Schacht continued to participate in German economic life and even, in a minor way, in some of the early Nazi aggressions. Prior to the occupation of Austria he set a rate of exchange between the mark and the schilling. After the occupation of Austria he arranged for the incorporation of the Austrian National Bank into the Reichsbank and made a violently pro-Nazi speech in which he stated that the Reichsbank would always be Nazi as long as he was connected with it, praised Hitler, defended the occupation of Austria, scoffed at objections to the way it was carried out, and ended with "to our Führer a triple 'Sieg Heil'." He has not contended that this speech did not represent his state of mind at the time. After the occupation of the Sudetenland, he arranged for currency conversion and for the incorporation into the Reichsbank of local Czech banks of issue. On 29 November 1938 he made a speech in which he pointed with pride to his economic policy which had created the high degree of German armament, and added that this armament had made Germany's foreign policy possible.

Schacht was not involved in the planning of any of the specific wars of aggression charged in Count Two. His participation in the occupation of Austria and the Sudetenland (neither of which are charged as aggressive wars) was on such a limited basis that it does not amount to participation in the common plan charged in Count

One. He was clearly not one of the inner circle around Hitler which was most closely involved with this common plan. He was regarded by this group with undisguised hostility. The testimony of Speer shows that Schacht's arrest on 23 July 1944 was based as much on Hitler's enmity towards Schacht growing out of his attitude before the war as it was on suspicion of his complicity in the bomb plot. The case against Schacht therefore depends on the inference that Schacht did in fact know of the Nazi aggressive plans.

On this all-important question evidence has been given for the Prosecution, and a considerable volume of evidence for the Defense. The Tribunal has considered the whole of this evidence with great care, and comes to the conclusion that this necessary inference has not been established beyond a reasonable doubt.

Conclusion.

The Tribunal finds that Schacht is not guilty on this Indictment, and directs that he shall be discharged by the Marshal when the Tribunal presently adjourns.

DÖNITZ

Dönitz is indicted on Counts One, Two, and Three. In 1935 he took command of the first U-boat flotilla commissioned since 1918, became in 1936 commander of the submarine arm, was made Vice-Admiral in 1940, Admiral in 1942, and on 30 January 1943 Commander-in-Chief of the German Navy. On 1 May 1945 he became the Head of State, succeeding Hitler.

Crimes against Peace

Although Dönitz built and trained the German U-boat arm, the evidence does not show he was privy to the conspiracy to wage aggressive wars or that he prepared and initiated such wars. He was a line officer performing strictly tactical duties. He was not present at the important conferences when plans for aggressive wars were announced, and there is no evidence he was informed about the decisions reached there. Dönitz did, however, wage aggressive war within the meaning of that word as used by the Charter. Submarine warfare which began immediately upon the outbreak of war, was fully coordinated with the other branches of the Wehrmacht. It is clear that his U-boats, few in number at the time, were fully prepared to wage war.

It is true that until his appointment in January 1943 as Commander-in-Chief he was not an "Oberbefehlshaber". But this statement underestimates the importance of Dönitz' position. He was no mere army or division commander. The U-boat arm was the principal part of the German fleet and Dönitz was its leader. The High

Seas fleet made a few minor, if spectacular, raids during the early years of the war, but the real damage to the enemy was done almost exclusively by his submarines as the millions of tons of Allied and neutral shipping sunk will testify. Dönitz was solely in charge of this warfare. The Naval War Command reserved for itself only the decision as to the number of submarines in each area. In the invasion of Norway, for example, Dönitz made recommendations in October 1939 as to submarine bases, which he claims were no more than a staff study, and in March 1940 he made out the operational orders for the supporting U-boats, as discussed elsewhere in this Judgment.

That his importance to the German war effort was so regarded is eloquently proved by Raeder's recommendation of Dönitz as his successor and his appointment by Hitler on 30 January 1943 as Commander-in-Chief of the Navy. Hitler, too, knew that submarine warfare was the essential part of Germany's naval warfare.

From January 1943, Dönitz was consulted almost continuously by Hitler. The evidence was that they conferred on naval problems about 120 times during the course of the war.

As late as April 1945, when he admits he knew the struggle was hopeless, Dönitz as its Commander-in-Chief urged the Navy to continue its fight. On 1 May 1945 he became the Head of State and as such ordered the Wehrmacht to continue its war in the East, until capitulation on 9 May 1945. Dönitz explained that his reason for these orders was to insure that the German civilian population might be evacuated and the Army might make an orderly retreat from the East.

In the view of the Tribunal, the evidence shows that Dönitz was active in waging aggressive war.

War Crimes

Dönitz is charged with waging unrestricted submarine warfare contrary to the Naval Protocol of 1936, to which Germany acceded, and which reaffirmed the rules of submarine warfare laid down in the London Naval Agreement of 1930.

The Prosecution has submitted that on 3 September 1939 the German U-boat arm began to wage unrestricted submarine warfare upon all merchant ships, whether enemy or neutral, cynically disregarding the Protocol; and that a calculated effort was made throughout the war to disguise this practice by making hypocritical references to international law and supposed violations by the Allies.

Dönitz insists that at all times the Navy remained within the confines of international law and of the Protocol. He testified that when the war began, the guide to submarine warfare was the German Prize Ordinance taken almost literally from the Protocol, that

pursuant to the German view, he ordered submarines to attack all merchant ships in convoy, and all that refused to stop or used their radio upon sighting a submarine. When his reports indicated that British merchant ships were being used to give information by wireless, were being armed, and were attacking submarines on sight, he ordered his submarines on 17 October 1939 to attack all enemy merchant ships without warning on the ground that resistance was to be expected. Orders already had been issued on 21 September 1939 to attack all ships, including neutrals, sailing at night without lights in the English Channel.

On 24 November 1939 the German Government issued a warning to neutral shipping that, owing to the frequent engagements taking place in the waters around the British Isles and the French Coast between U-boats and Allied merchant ships which were armed and had instructions to use those arms as well as to ram U-boats, the safety of neutral ships in those waters could no longer be taken for granted. On 1 January 1940 the German U-boat Command, acting on the instructions of Hitler, ordered U-boats to attack all Greek merchant ships in the zone surrounding the British Isles which was banned by the United States to its own ships and also merchant ships of every nationality in the limited area of the Bristol Channel. Five days later a further order was given to U-boats to "make immediately unrestricted use of weapons against all ships" in an area of the North Sea, the limits of which were defined. Finally on 18 January 1940, U-boats were authorized to sink, without warning, all ships "in those waters near the enemy coasts in which the use of mines can be pretended". Exceptions were to be made in the cases of United States, Italian, Japanese, and Soviet ships.

Shortly after the outbreak of war the British Admiralty, in accordance with its *Handbook of Instructions* of 1938 to the Merchant Navy, armed its merchant vessels, in many cases convoyed them with armed escort, gave orders to send position reports upon sighting submarines, thus integrating merchant vessels into the warning network of naval intelligence. On 1 October 1939 the British Admiralty announced that British merchant ships had been ordered to ram U-boats if possible.

In the actual circumstances of this case, the Tribunal is not prepared to hold Dönitz guilty for his conduct of submarine warfare against British armed merchant ships.

However, the proclamation of operational zones and the sinking of neutral merchant vessels which enter those zones presents a different question. This practice was employed in the war of 1914-18 by Germany and adopted in retaliation by Great Britain. The Washington Conference of 1922, the London Naval Agreement of 1930, and the Protocol of 1936 were entered into with full knowledge that

such zones had been employed in the first World War. Yet the Protocol made no exception for operational zones. The order of Dönitz to sink neutral ships without warning when found within these zones was therefore, in the opinion of the Tribunal, a violation of the Protocol.

It is also asserted that the German U-boat arm not only did not carry out the warning and rescue provisions of the Protocol but that Dönitz deliberately ordered the killing of survivors of shipwrecked vessels, whether enemy or neutral. The Prosecution has introduced much evidence surrounding two orders of Dönitz—War Order Number 154, issued in 1939, and the so-called "Laconia" Order of 1942. The Defense argues that these orders and the evidence supporting them do not show such a policy and introduced much evidence to the contrary. The Tribunal is of the opinion that the evidence does not establish with the certainty required that Dönitz deliberately ordered the killing of shipwrecked survivors. The orders were undoubtedly ambiguous, and deserve the strongest censure.

The evidence further shows that the rescue provisions were not carried out and that the Defendant ordered that they should not be carried out. The argument of the Defense is that the security of the submarine is, as the first rule of the sea, paramount to rescue, and that the development of aircraft made rescue impossible. This may be so, but the Protocol is explicit. If the commander cannot rescue, then under its terms he cannot sink a merchant vessel and should allow it to pass harmless before his periscope. These orders, then, prove Dönitz is guilty of a violation of the Protocol.

In view of all of the facts proved and in particular of an order of the British Admiralty announced on 8 May 1940, according to which all vessels should be sunk at night in the Skagerrak, and the answers to interrogatories by Admiral Nimitz stating that unrestricted submarine warfare was carried on in the Pacific Ocean by the United States from the first day that Nation entered the war, the sentence of Dönitz is not assessed on the ground of his breaches of the international law of submarine warfare.

Dönitz was also charged with responsibility for Hitler's Commando Order of 18 October 1942. Dönitz admitted he received and knew of the order when he was Flag Officer of U-boats, but disclaimed responsibility. He points out that the order by its express terms excluded men captured in naval warfare, that the Navy had no territorial commands on land, and that submarine commanders would never encounter commandos.

In one instance, when he was Commander-in-Chief of the Navy, in 1943, the members of the crew of an Allied motor torpedo boat were captured by German Naval Forces. They were interrogated for intelligence purposes on behalf of the local Admiral, and then turned

over by his order to the SD and shot. Dönitz said that if they were captured by the Navy their execution was a violation of the Commando Order, that the execution was not announced in the Wehrmacht communiqué, and that he was never informed of the incident. He pointed out that the Admiral in question was not in his chain of command, but was subordinate to the Army general in command of the Norway occupation. But Dönitz permitted the order to remain in full force when he became Commander-in-Chief, and to that extent he is responsible.

Dönitz, in a conference of 11 December 1944, said "12,000 concentration camp prisoners will be employed in the shipyards as additional labor". At this time Dönitz had no jurisdiction over shipyard construction, and claims that this was merely a suggestion at the meeting that the responsible officials do something about the production of ships, that he took no steps to get these workers since it was not a matter for his jurisdiction and that he does not know whether they ever were procured. He admits he knew of concentration camps. A man in his position must necessarily have known that citizens of occupied countries in large numbers were confined in the concentration camps.

In 1945 Hitler requested the opinion of Jodl and Dönitz whether the Geneva Convention should be denounced. The notes of the meeting between the two military leaders on 20 February 1945 show that Dönitz expressed his view that the disadvantages of such an action outweighed the advantages. The summary of Dönitz' attitude shown in the notes taken by an officer, included the following sentence: "It would be better to carry out the measures considered necessary without warning, and at all costs to save face with the outer world."

The Prosecution insisted that "the measures" referred to meant the Convention should not be denounced, but should be broken at will. The Defense explanation is that Hitler wanted to break the Convention for two reasons: to take away from German troops the protection of the Convention, thus preventing them from continuing to surrender in large groups to the British and Americans, and also to permit reprisals against Allied prisoners of war because of Allied bombing raids. Dönitz claims that what he meant by "measures" were disciplinary measures against German troops to prevent them from surrendering, and that his words had no reference to measures against the Allies; moreover that this was merely a suggestion, and that in any event no such measures were ever taken, either against Allies or Germans. The Tribunal, however, does not believe this explanation. The Geneva Convention was not, however, denounced by Germany. The Defense has introduced several affidavits to prove that British naval prisoners of war in camps under

Dönitz' jurisdiction were treated strictly according to the Convention, and the Tribunal takes this fact into consideration, regarding it as a mitigating circumstance.

Conclusion

The Tribunal finds Dönitz is not guilty on Count One of the Indictment, and is guilty on Counts Two and There.

RAEDER

Raeder is indicted on Counts One, Two, and Three. In 1928 he became Chief of Naval Command and in 1935 Oberbefehlshaber der Kriegsmarine (OKM); in 1939 Hitler made him Gross-Admiral. He was a member of the Reich Defense Council. On 30 January 1943 Dönitz replaced him at his own request, and he became Admiral Inspector of the Navy, a nominal title.

Crimes against Peace

In the 15 years he commanded it, Raeder built and directed the German Navy; he accepts full responsibility until retirement in 1943. He admits the Navy violated the Versailles Treaty, insisting it was "a matter of honor for every man" to do so, and alleges that the violations were for the most part minor, and Germany built less than her allowable strength. These violations, as well as those of the Anglo-German Naval Agreement of 1935, have already been discussed elsewhere in this Judgment.

Raeder received the directive of 24 June 1937 from Von Blomberg requiring special preparations for war against Austria. He was one of the five leaders present at the Hossbach Conference of 5 November 1937. He claims Hitler merely wished by this conference to spur the Army to faster rearmament, insists he believed the questions of Austria and Czechoslovakia would be settled peacefully, as they were, and points to the new naval treaty with England which had just been signed. He received no orders to speed construction of U-boats, indicating that Hitler was not planning war.

Raeder received directives on "Fall Grün" and the directives on "Fall Weiss" beginning with that of 3 April 1939; the latter directed the Navy to support the Army by intervention from the sea. He was also one of the few chief leaders present at the meeting of 23 May 1939. He attended the Obersalzberg briefing of 22 August 1939.

The conception of the invasion of Norway first arose in the mind of Raeder and not that of Hitler. Despite Hitler's desire, as shown by his directive of October 1939 to keep Scandinavia neutral, the Navy examined the advantages of naval bases there as early as October. Admiral Karls originally suggested to Raeder the desirable aspects of bases in Norway. A questionnaire, dated 3 October 1939, which

sought comments on the desirability of such bases, was circulated within SKL. On 10 October Raeder discussed the matter with Hitler; his War Diary entry for that day says Hitler intended to give the matter consideration. A few months later Hitler talked to Raeder, Quisling, Keitel, and Jodl; OKW began its planning and the Naval War Staff worked with OKW staff officers. Raeder received Keitel's directive for Norway on 27 January 1940 and the subsequent directive of 1 March, signed by Hitler.

Raeder defends his actions on the ground it was a move to forestall the British. It is not necessary again to discuss this defense, which has heretofore been treated in some detail, concluding that Germany's invasion of Norway and Denmark was aggressive war. In a letter to the Navy, Raeder said: "The operations of the Navy in the occupation of Norway will for all time remain the great contribution of the Navy to this war."

Raeder received the directives, including the innumerable postponements, for the attack in the West. In a meeting of 18 March 1941 with Hitler he urged the occupation of all Greece. He claims this was only after the British had landed and Hitler had ordered the attack, and points out the Navy had no interest in Greece. He received Hitler's directive on Yugoslavia.

Raeder endeavored to dissuade Hitler from embarking upon the invasion of the U.S.S.R. In September 1940 he urged on Hitler an aggressive Mediterranean policy as an alternative to an attack on Russia. On 14 November 1940 he urged the war against England "as our main enemy" and that submarine and naval air force construction be continued. He voiced "serious objections against the Russian campaign before the defeat of England", according to notes of the German Naval War Staff. He claims his objections were based on the violation of the Non-Aggression Pact as well as strategy. But once the decision had been made, he gave permission 6 days before the invasion of the Soviet Union to attack Russian submarines in the Baltic Sea within a specified warning area and defends this action because these submarines were "snooping" on German activities.

It is clear from this evidence that Raeder participated in the planning and waging of aggressive war.

War Crimes

Raeder is charged with War Crimes on the High Seas. The *Athenia,* an unarmed British passenger liner, was sunk on 3 September 1939, while outward bound to America. The Germans 2 months later charged that Mr. Churchill deliberately sank the *Athenia* to encourage American hostility to Germany. In fact, it was sunk by the German U-boat 30. Raeder claims that an inexperienced

U-boat commander sank it in mistake for an armed merchant cruiser, that this was not known until the U-30 returned several weeks after the German denial and that Hitler then directed the Navy and Foreign Office to continue denying it. Raeder denied knowledge of the propaganda campaign attacking Mr. Churchill.

The most serious charge against Raeder is that he carried out unrestricted submarine warfare, including sinking of unarmed merchant ships, of neutrals, non-rescue and machine-gunning of survivors, contrary to the London Protocol of 1936. The Tribunal makes the same finding on Raeder on this charge as it did as to Dönitz, which has already been announced, up until 30 January 1943 when Raeder retired.

The Commando Order of 18 October 1942, which expressly did not apply to naval warfare, was transmitted by the Naval War Staff to the lower naval commanders with the direction it should be distributed orally by flotilla leaders and section commanders to their subordinates. Two commandos were put to death by the Navy, and not the SD, at Bordeaux on 10 December 1942. The comment of the Naval War Staff was that this was "in accordance with the Führer's special order, but is nevertheless something new in international law, since the soldiers were in uniform." Raeder admits he passed the order down through the chain of command, and he did not object to Hitler.

Conclusion

The Tribunal finds that Raeder is guilty on Counts One, Two, and Three.

VON SCHIRACH

Von Schirach is indicted under Counts One and Four. He joined the Nazi Party and the SA in 1925. In 1929 he became the leader of the National Socialist Students Union. In 1931 he was made Reichs Youth Leader of the Nazi Party with control over all Nazi youth organizations, including the Hitler Jugend. In 1933, after the Nazis had obtained control of the Government, Von Schirach was made Leader of Youth in the German Reich, originally a position within the Ministry of the Interior, but, after 1 December 1936, an office in the Reich Cabinet. In 1940 Von Schirach resigned as head of the Hitler Jugend and Leader of Youth in the German Reich, but retained his position as Reichsleiter with control over Youth Education. In 1940 he was appointed Gauleiter of Vienna, Reichs Governor of Vienna, and Reichs Defense Commissioner for that territory.

Crimes against Peace

After the Nazis had come to power Von Schirach, utilizing both physical violence and official pressure, either drove out of existence

or took over all youth groups which competed with the Hitler Jugend. A Hitler decree of 1 December 1936 incorporated all German youth within the Hitler Jugend. By the time formal conscription was introduced in 1940, 97 percent of those eligible were already members.

Von Schirach used the Hitler Jugend to educate German Youth "in the spirit of National Socialism" and subjected them to an intensive program of Nazi propaganda. He established the Hitler Jugend as a source of replacements for the Nazi Party formations. In October 1938 he entered into an agreement with Himmler under which members of the Hitler Jugend who met SS standards would be considered as the primary source of replacements for the SS.

Von Schirach also used the Hitler Jugend for pre-military training. Special units were set up whose primary purpose was training specialists for the various branches of the service. On 11 August 1939 he entered into an agreement with Keitel under which the Hitler Jugend agreed to carry out its pre-military activities under standards laid down by the Wehrmacht and the Wehrmacht agreed to train 30,000 Hitler Jugend instructors each year. The Hitler Jugend placed particular emphasis on the military spirit and its training program stressed the importance of return of the colonies, the necessity for Lebensraum, and the noble destiny of German youth to die for Hitler.

Despite the warlike nature of the activities of the Hitler Jugend, however, it does not appear that Von Schirach was involved in the development of Hitler's plan for territorial expansion by means of aggressive war, or that he participated in the planning or preparation of any of the wars of aggression.

Crimes against Humanity

In July 1940 Von Schirach was appointed Gauleiter of Vienna. At the same time he was appointed Reichs Governor for Vienna and Reichs Defense Commissioner, originally for Military District 17, including the Gaue of Vienna, Upper Danube, and Lower Danube and, after 17 November 1942, for the Gaue of Vienna alone. As Reichs Defense Commissioner, he had control of the civilian war economy. As Reichs Governor he was head of the municipal administration of the City of Vienna, and, under the supervision of the Minister of the Interior, in charge of the governmental administration of the Reich in Vienna.

Von Schirach is not charged with the commission of War Crimes in Vienna, only with the commission of Crimes against Humanity. As has already been seen, Austria was occupied pursuant to a common plan of aggression. Its occupation is, therefore, a "crime within the jurisdiction of the Tribunal", as that term is used in

Article 6 (c) of the Charter. As a result, "murder, extermination, enslavement, deportation, and other inhumane acts" and "persecutions on political, racial, or religious grounds" in connection with this occupation constitute a Crime against Humanity under that Article.

As Gauleiter of Vienna, Von Schirach came under the Sauckel decree, dated 6 April 1942, making the Gauleiters Sauckel's plenipotentiaries for manpower with authority to supervise the utilization and treatment of manpower within their Gaue. Sauckel's directives provided that the forced laborers were to be fed, sheltered, and treated so as to exploit them to the highest possible degree at the lowest possible expense.

When Von Schirach became Gauleiter of Vienna the deportation of the Jews had already been begun, and only 60,000 out of Vienna's original 190,000 Jews remained. On 2 October 1940 he attended a conference at Hitler's office and told Frank that he had 50,000 Jews in Vienna which the General Government would have to take over from him. On 3 December 1940 Von Schirach received a letter from Lammers stating that after the receipt of the reports made by Von Schirach, Hitler had decided to deport the 60,000 Jews still remaining in Vienna to the General Government because of the housing shortage in Vienna. The deportation of the Jews from Vienna was then begun and continued until the early fall of 1942. On 15 September 1942 Von Schirach made a speech in which he defended his action in having driven "tens of thousands upon tens of thousands of Jews into the ghetto of the East" as "contributing to European culture".

While the Jews were being deported from Vienna, reports, addressed to him in his official capacity, were received in Von Schirach's office from the office of the Chief of the Security Police and SD which contained a description of the activities of Einsatzgruppen in exterminating Jews. Many of these reports were initialed by one of Von Schirach's principal deputies. On 30 June 1944 Von Schirach's office also received a letter from Kaltenbrunner informing him that a shipment of 12,000 Jews was on its way to Vienna for essential war work and that all those who were incapable of work would have to be kept in readiness for "special action".

The Tribunal finds that Von Schirach, while he did not originate the policy of deporting Jews from Vienna, participated in this deportation after he had become Gauleiter of Vienna. He knew that the best the Jews could hope for was a miserable existence in the ghettos of the East. Bulletins describing the Jewish extermination were in his office.

While Gauleiter of Vienna Von Schirach continued to function as Reichsleiter for Youth Education and in this capacity he was

informed of the Hitler Jugend's participation in the plan put into effect in the fall of 1944 under which 50,000 young people between the ages of 10 and 20 were evacuated into Germany from areas recaptured by the Soviet forces and used as apprentices in German industry and as auxiliaries in units of the German Armed Forces. In the summer of 1942 Von Schirach telegraphed Bormann urging that a bombing attack on an English cultural town be carried out in retaliation for the assassination of Heydrich which, he claimed, had been planned by the British.

Conclusion

The Tribunal finds that Von Schirach is not guilty on Count One. He is guilty under Count Four.

SAUCKEL

Sauckel is indicted under all four Counts. Sauckel joined the Nazi Party in 1923, and became Gauleiter of Thuringia in 1927. He was a member of the Thuringian legislature from 1927 to 1933, was appointed Reichsstatthalter for Thuringia in 1932, and Thuringian Minister of the Interior and head of the Thuringian State Ministry in May 1933. He became a member of the Reichstag in 1933. He held the formal rank of Obergruppenführer in both the SA and the SS.

Crimes against Peace

The evidence has not satisfied the Tribunal that Sauckel was sufficiently connected with the common plan to wage aggressive war or sufficiently involved in the planning or waging of the aggressive wars to allow the Tribunal to convict him on Counts One or Two.

War Crimes and Crimes against Humanity

On 21 March 1942 Hitler appointed Sauckel Plenipotentiary General for the Utilization of Labor, with authority to put under uniform control "the utilization of all available manpower, including that of workers recruited abroad and of prisoners of war". Sauckel was instructed to operate within the fabric of the Four Year Plan, and on 27 March 1942 Göring issued a decree as Commissioner for the Four Year Plan transferring his manpower sections to Sauckel. On 30 September 1942 Hitler gave Sauckel authority to appoint Commissioners in the various occupied territories, and "to take all necessary measures for the enforcement" of the Decree of 21 March 1942.

Under the authority which he obtained by these decrees, Sauckel set up a program for the mobilization of the labor resources available to the Reich. One of the important parts of this mobilization was the systematic exploitation, by force, of the labor resources of the

occupied territories. Shortly after Sauckel had taken office, he had the governing authorities in the various occupied territories issue decrees, establishing compulsory labor service in Germany. Under the authority of these decrees Sauckel's commissioners, backed up by the police authorities of the occupied territories, obtained and sent to Germany the laborers which were necessary to fill the quotas given them by Sauckel. He described so-called "voluntary" recruiting by a whole batch of male and female agents just as was done in the olden times for shanghaiing". That real voluntary recruiting was the exception rather than the rule is shown by Sauckel's statement on 1 March 1944, that "out of five million foreign workers who arrived in Germany not even 200,000 came voluntarily". Although he now claims that the statement is not true, the circumstances under which it was made, as well as the evidence presented before the Tribunal, leave no doubt that it was substantially accurate.

The manner in which the unfortunate slave laborers were collected and transported to Germany, and what happened to them after they arrived, has already been described. Sauckel argues that he is not responsible for these excesses in the administration of the program. He says that the total number of workers to be obtained was set by the demands from agriculture and from industry; that obtaining the workers was the responsibility of the occupation authorities, transporting them to Germany that of the German railways, and taking care of them in Germany that of the Ministries of Labor and Agriculture, the German Labor Front, and the various industries involved. He testifies that insofar as he had any authority he was constantly urging humane treatment.

There is no doubt, however, that Sauckel had over-all responsibility for the slave labor program. At the time of the events in question he did not fail to assert control over the fields which he now claims were the sole responsibility of others. His regulations provided that his commissioners should have authority for obtaining labor, and he was constantly in the field supervising the steps which were being taken. He was aware of ruthless methods being taken to obtain laborers, and vigorously supported them on the ground that they were necessary to fill the quotas.

Sauckel's regulations also provided that he had responsibility for transporting the laborers to Germany, allocating them to employers and taking care of them, and that the other agencies involved in these processes were subordinate to him. He was informed of the bad conditions which existed. It does not appear that he advocated brutality for its own sake, or was an advocate of any program such as Himmler's plan for extermination through work. His attitude was thus expressed in a regulation:

"All the men must be fed, sheltered and treated in such a way as to exploit them to the highest possible extent at the lowest conceivable degree of expenditure."

The evidence shows that Sauckel was in charge of a program which involved deportation for slave labor of more than 5,000,000 human beings, many of them under terrible conditions of cruelty and suffering.

Conclusion

The Tribunal finds that Sauckel is not guilty on Counts One and Two. He is guilty under Counts Three and Four.

JODL

Jodl is indicted on all four Counts. From 1935 to 1938 he was Chief of the National Defense Section in the High Command. After a year in command of troops, in August 1939 he returned to become Chief of the Operations Staff of the High Command of the Armed Forces. Although his immediate superior was Defendant Keitel, he reported directly to Hitler on operational matters. In the strict military sense, Jodl was the actual planner of the war and responsible in large measure for the strategy and conduct of operations.

Jodl defends himself on the ground he was a soldier sworn to obedience, and not a politician; and that his staff and planning work left him no time for other matters. He said that when he signed or initialed orders, memoranda, and letters, he did so for Hitler and often in the absence of Keitel. Though he claims that as a soldier he had to obey Hitler, he says that he often tried to obstruct certain measures by delay, which occasionally proved successful as when he resisted Hitler's demand that a directive be issued to lynch Allied "terror fliers".

Crimes against Peace

Entries in Jodl's diary of 13 and 14 February 1938 show Hitler instructed both him and Keitel to keep up military pressure against Austria begun at the Schuschnigg conference by simulating military measures, and that these achieved their purpose. When Hitler decided "not to tolerate" Schuschnigg's plebiscite, Jodl brought to the conference the "old draft", the existing staff plan. His diary for 10 March shows Hitler then ordered the preparation of "Case Otto", and the directive was initialed by Jodl. Jodl issued supplementary instructions on 11 March, and initialed Hitler's order for the invasion on the same date.

In planning the attack on Czechoslovakia, Jodl was very active, according to the Schmundt Notes. He initialed items 14, 17, 24, 36, and 37 in the Notes. Jodl admits he agreed with OKH that the "incident" to provide German intervention must occur at the latest

by 1400 on X-1 Day, the day before the attack, and said it must occur at a fixed time in good flying weather. Jodl conferred with the propaganda experts on "imminent common tasks" such as German violations of international law, exploitation of them by the enemy and refutations by the Germans, which "task" Jodl considered "particularly important".

After Munich, Jodl wrote:

> "Czechoslovakia as a power is out.... The genius of the Führer and his determination not to shun even a World War have again won the victory without the use of force. The hope remains that the incredulous, the weak, and the doubtful people have been converted and will remain that way,"

Shortly after the Sudeten occupation, Jodl went to a post command and did not become Chief of the Operations Staff in OKW until the end of August 1939.

Jodl discussed the Norway invasion with Hitler, Keitel, and Raeder on 12 December 1939; his diary is replete with late entries on his activities in preparing this attack. Jodl explains his comment that Hitler was still looking for an "excuse" to move meant he was waiting for reliable intelligence on the British plans, and defends the invasion as a necessary move to forestall them. His testimony shows that from October 1939 Hitler planned to attack the West through Belgium, but was doubtful about invading Holland until the middle of November. On 8 February 1940, Jodl, his deputy Warlimont, and Jeschonnek, the Air Forces planner, discussed among themselves the "new idea" of attacking Norway, Denmark, and Holland, but guaranteeing the neutrality of Belgium. Many of the 17 orders postponing the attack in the West for various reasons including weather conditions, until May 1940, were signed by Jodl.

He was active in the planning against Greece and Yugoslavia. The Hitler order of 11 January 1941 to intervene in Albania was initialed by Jodl. On 20 January, 4 months before the attack, Hitler told a conference of German and Italian generals in Jodl's presence that German troop concentrations in Rumania were to be used against Greece. Jodl was present on 18 March when Hitler told Raeder all Greece must be occupied before any settlement could be reached. On 27 March, when Hitler told the German High Command that the destruction of Yugoslavia should be accomplished with "unmerciful harshness", and the decision was taken to bomb Belgrade without a declaration of war, Jodl was also there.

Jodl testified that Hitler feared an attack by Russia and so attacked first. This preparation began almost a year before the invasion. Jodl told Warlimont as early as 29 July 1940 to prepare the plans since Hitler had decided to attack; and Hitler later told Warlimont he had planned to attack in August 1940 but postponed

it for military reasons. He initialed Hitler's directive of 12 November 1940 that preparations verbally ordered should be continued and also initialed "Case Barbarossa" on 18 December. On 3 February 1941 Hitler, Jodl, and Keitel discussed the invasion, and he was present on 14 June when final reports on "Case Barbarossa" were made.

War Crimes and Crimes against Humanity

On 18 October 1942 Hitler issued the Commando Order and a day later a supplementary explanation to commanding officers only. The covering memorandum was signed by Jodl. Early drafts of the order were made by Jodl's staff, with his knowledge. Jodl testified he was strongly opposed on moral and legal grounds, but could not refuse to pass it on. He insists he tried to mitigate its harshness in practice by not informing Hitler when it was not carried out. He initialed the OKW memorandum of 25 June 1944 reaffirming the Order after the Normandy landings.

A plan to eliminate Soviet commissars was in the directive for "Case Barbarossa". The decision whether they should be killed without trial was to be made by an officer. A draft contains Jodl's handwriting suggesting this should be handled as retaliation, and he testified this was his attempt to get around it.

When in 1945 Hitler considered denouncing the Geneva Convention, Jodl argued the disadvantages outweighed the advantages. On 21 February he told Hitler adherence to the Convention would not interfere with the conduct of the war, giving as an example the sinking of a British hospital ship as a reprisal and calling it a mistake. He said he did so because it was the only attitude Hitler would consider, that moral or legal arguments had no effect and argues he thus prevented Hitler from denouncing the Convention.

There is little evidence that Jodl was actively connected with the slave labor program, and he must have concentrated on his strategic planning function. But in his speech of 7 November 1943 to the Gauleiters he said it was necessary to act "with remorseless vigor and resolution" in Denmark, France, and the Low Countries to compel work on the Atlantic Wall.

By teletype of 28 October 1944 Jodl ordered the evacuation of all persons in northern Norway and burning of their houses so they could not help the Russians. Jodl says he was against this, but Hitler ordered it and it was not fully carried out. A document of the Norwegian Government says such an evacuation did take place in northern Norway and 30,000 houses were damaged. On 7 October 1941, Jodl signed an order that Hitler would not accept an offer of surrender of Leningrad or Moscow, but on the contrary he insisted that they be completely destroyed. He says this was done because

the Germans were afraid those cities would be mined by the Russians as was Kiev. No surrender was ever offered.

His defense, in brief, is the doctrine of "superior orders", prohibited by Article 8 of the Charter as a defense. There is nothing in mitigation. Participation in such crimes as these has never been required of any soldier and he cannot now shield himself behind a mythical requirement of soldierly obedience at all costs as his excuse for commission of these crimes.

Conclusion

The Tribunal finds that Jodl is guilty on all four counts.

VON PAPEN

Von Papen is indicted under Counts One and Two. He was appointed Chancellor of the Reich on 1 June 1932, and was succeeded by Von Schleicher on 2 December 1932. He was made Vice Chancellor in the Hitler Cabinet on 30 January 1933, and on 13 November 1933 Plenipotentiary for the Saar. On 26 July 1934 he was appointed Minister to Vienna, and was recalled on 4 February 1938. On 29 April 1939 he was appointed Ambassador to Turkey. He returned to Germany when Turkey broke off diplomatic relations with Germany in August 1944.

Crimes against Peace

Von Papen was active in 1932 and 1933 in helping Hitler to form the Coalition Cabinet and aided in his appointment as Chancellor on 30 January 1933. As Vice Chancellor in that Cabinet he participated in the Nazi consolidation of control in 1933. On 16 June 1934, however, Von Papen made a speech at Marburg which contained a denunciation of the Nazi attempts to suppress the free press and the church, of the existence of a reign of terror, and of "150 percent Nazis" who were mistaking "brutality for vitality". On 30 June 1934, in the wave of violence which accompanied the so-called Röhm Purge, Von Papen was taken into custody by the SS, his office force was arrested, and two of his associates, including the man who had helped him work on the Marburg speech, were murdered. Von Papen was released on 3 July 1934.

Notwithstanding the murder of his associates, Von Papen accepted the position of Minister to Austria on 26 July 1934, the day after Dollfuss had been assassinated. His appointment was announced in a letter from Hitler which instructed him to direct relations between the two countries "into normal ard friendly channels" and assured him of Hitler's "complete and unlimited confidence". As Minister to Austria, Von Papen was active in trying to strengthen the position of the Nazi Party in Austria for the purpose of bringing about An-

schluss. In early 1935 he attended a meeting in Berlin at which the policy was laid down to avoid everything which would give the appearance of German intervention in the internal affairs of Austria. Yet he arranged for 200,000 marks a month to be transmitted to "the persecuted National Socialist sufferers in Austria". On 17 May 1935 he reported to Hitler the results of a conference with Captain Leopold, the leader of the Austrian Nazis, and urged Hitler to make a statement recognizing the national independence of Austria, and predicting that the result might be to help the formation of a coalition between Schuschnigg's Christian Socialists and the Austrian Nazis against Starhemberg. On 27 July 1935 Von Papen reported to Hitler that the union of Austria and Germany could not be brought about by external pressure but only by the strength of the National Socialist movement. He urged that the Austrian Nazi Party change its character as a centralized Reich German party and become a rallying point for all National Germans.

Von Papen was involved in occasional Nazi political demonstrations, supported Nazi propaganda activities and submitted detailed reports on the activities of the Nazi Party, and routine reports relating to Austrian military defenses. His Austrian policy resulted in the agreement of 11 July 1936, which nominally restored relations between Germany and Austria to "normal and friendly form", but which had a secret supplement providing for an amnesty for Austrian Nazis, the lifting of censorship on Nazi papers, the resumption of political activities by Nazis and the appointment of men friendly to the Nazis in the Schuschnigg Cabinet.

After the signing of this agreement Von Papen offered to resign, but his resignation was not accepted. Thereafter he proceeded to bring continued pressure on the Austrian Government to bring Nazis into the Schuschnigg Cabinet and to get them important positions in the Fatherland Front, Austria's single legal party. On 1 September 1936 Von Papen wrote Hitler advising him that anti-Nazis in the Austrian Ministry of Security were holding up the infiltration of the Nazis into the Austrian Government and recommended bringing "slowly intensified pressure directed at changing the regime".

On 4 February 1938 Von Papen was notified of his recall as Minister to Austria, at the same time that Von Fritsch, Von Blomberg, and Von Neurath were removed from their positions. He informed Hitler that he regretted his recall because he had been trying since November 1937 to induce Schuschnigg to hold a conference with Hitler and Schuschnigg had indicated his willingness to do so. Acting under Hitler's instructions, Von Papen then returned to Austria and arranged the conference which was held at Berchtesgaden on 12 February 1938. Von Papen accompanied Schuschnigg to that conference, and at its conclusion advised Schuschnigg to comply

with Hitler's demands. On 10 March 1938 Hitler ordered Von Papen to return to Berlin. Von Papen was in the Chancellery on 11 March when the occupation of Austria was ordered. No evidence has been offered showing that Von Papen was in favor of the decision to occupy Austria by force, and he has testified that he urged Hitler not to take this step.

After the annexation of Austria Von Papen retired into private life and there is no evidence that he took any part in politics. He accepted the position of Ambassador to Turkey in April 1939, but no evidence has been offered concerning his activities in that position implicating him in crimes.

The evidence leaves no doubt that Von Papen's primary purpose as Minister to Austria was to undermine the Schuschnigg regime and strengthen the Austrian Nazis for the purpose of bringing about Anschluss. To carry through this plan he engaged in both intrigue and bullying. But the Charter does not make criminal such offenses against political morality, however bad these may be. Under the Charter Von Papen can be held guilty only if he was a party to the planning of aggressive war. There is no evidence that he was a party to the plans under which the occupation of Austria was a step in the direction of further aggressive action, or even that he participated in plans to occupy Austria by aggressive war if necessary. But it is not established beyond a reasonable doubt that this was the purpose of his activity, and therefore the Tribunal cannot hold that he was a party to the common plan charged in Count One or participated in the planning of the aggressive wars charged under Count Two.

Conclusion

The Tribunal finds that Von Papen is not guilty under this Indictment, and directs that he shall be discharged by the Marshal, when the Tribunal presently adjourns.

SEYSS-INQUART

Seyss-Inquart is indicted under all Four Counts. Seyss-Inquart, an Austrian attorney, was appointed State Councillor in Austria in May 1937 as a result of German pressure. He had been associated with the Austrian Nazi Party since 1931, but had often had difficulties with that Party and did not actually join the Nazi Party until 13 March 1938. He was appointed Austrian Minister of Security and Interior with control over the police, pursuant to one of the conditions which Hitler had imposed on Schuschnigg in the Berchtesgaden Conference of 12 February 1938.

Activities in Austria

Seyss-Inquart participated in the last stages of the Nazi intrigue which preceded the German occupation of Austria, and was made Chancellor of Austria as a result of German threats of invasion.

On 12 March 1938 Seyss-Inquart met Hitler at Linz and made a speech welcoming the German forces and advocating the reunion of Germany and Austria. On 13 March he obtained the passage of a law providing that Austria should become a province of Germany and succeeded Miklas as President of Austria when Miklas resigned rather than sign the law. Seyss-Inquart's title was changed to Reich Governor of Austria on 15 March 1938, and on the same day he was given the title of a general in the SS. He was made a Reich Minister without Portfolio on 1 May 1939.

On 11 March 1939 he visited the Slovakian Cabinet in Bratislava and induced them to declare their independence in a way which fitted in closely with Hitler's offensive against the independence of Czechoslovakia.

As Reich Governor of Austria, Seyss-Inquart instituted a program of confiscating Jewish property. Under his regime Jews were forced to emigrate, were sent to concentration camps, and were subject to pogroms. At the end of his regime he cooperated with the Security Police and SD in the deportation of Jews from Austria to the East. While he was Governor of Austria, political opponents of the Nazis were sent to concentration camps by the Gestapo, mistreated, and often killed.

Criminal Activities in Poland and the Netherlands

In September 1939 Seyss-Inquart was appointed Chief of Civil Administration of South Poland. On 12 October 1939 Seyss-Inquart was made Deputy Governor General of the General Government of Poland under Frank. On 18 May 1940 Seyss-Inquart was appointed Reich Commissioner for Occupied Netherlands. In these positions he assumed responsibility for governing territory which had been occupied by aggressive wars and the administration of which was of vital importance in the aggressive war being waged by Germany.

As Deputy Governor General of the General Government of Poland, Seyss-Inquart was a supporter of the harsh occupation policies which were put in effect. In November 1939, while on an inspection tour through the General Government, Seyss-Inquart stated that Poland was to be so administered as to exploit its economic resources for the benefit of Germany. Seyss-Inquart also advocated the persecution of Jews and was informed of the beginning of the AB action which involved the murder of many Polish intellectuals.

As Reich Commissioner for the Occupied Netherlands, Seyss-Inquart was ruthless in applying terrorism to suppress all opposition to the German occupation, a program which he described as "annihilating" his opponents. In collaboration with the local Higher SS and Police Leaders he was involved in the shooting of hostages for offenses against the occupation authorities and sending to concentration camps all suspected opponents of occupation policies including priests and educators. Many of the Dutch police were forced to participate in these programs by threats of reprisal against their families. Dutch courts were also forced to participate in this program, but when they indicated their reluctance to give sentences of imprisonment because so many prisoners were in fact killed, a greater emphasis was placed on the use of summary police courts.

Seyss-Inquart carried out the economic administration of the Netherlands without regard for rules of the Hague Convention, which he described as obsolete. Instead, a policy was adopted for the maximum utilization of economic potential of the Netherlands, and executed with small regard for its effect on the inhabitants. There was widespread pillage of public and private property which was given color of legality by Seyss-Inquart's regulations, and assisted by manipulations of the financial institutions of the Netherlands under his control.

As Reich Commissioner for the Netherlands, Seyss-Inquart immediately began sending forced laborers to Germany. Until 1942 labor service in Germany was theoretically voluntary, but was actually coerced by strong economic and governmental pressure. In 1942 Seyss-Inquart formally decreed compulsory labor service, and utilized the services of the Security Police and SD to prevent evasion of his order. During the occupation over 500,000 people were sent from the Netherlands to the Reich as laborers and only a very small proportion were actually volunteers.

One of Seyss-Inquart's first steps as Reich Commissioner of the Netherlands was to put into effect a series of laws imposing economic discriminations against the Jews. This was followed by decrees requiring their registration, decrees compelling them to reside in ghettos and to wear the Star of David, sporadic arrests and detention in concentration camps, and finally, at the suggestion of Heydrich, the mass deportation of almost 120,000 of Holland's 140,000 Jews to Auschwitz and the "final solution". Seyss-Inquart admits knowing that they were going to Auschwitz, but claims that he heard from people who had been to Auschwitz that the Jews were comparatively well off there, and that he thought that they were being held there for resettlement after the war. In light of the evidence and on account of his official position it is impossible to believe this claim.

Seyss-Inquart contends that he was not responsible for many of the crimes committed in the occupation of the Netherlands because they were either ordered from the Reich, committed by the Army, over which he had no control, or by the German Higher SS and Police Leader, who, he claims, reported directly to Himmler. It is true that some of the excesses were the responsibility of the Army, and that the Higher SS and Police Leader, although he was at the disposal of Seyss-Inquart, could always report directly to Himmler. It is also true that in certain cases Seyss-Inquart opposed the extreme measures used by these other agencies, as when he was largely successful in preventing the Army from carrying out a scorched earth policy, and urged the Higher SS and Police Leaders to reduce the number of hostages to be shot. But the fact remains that Seyss-Inquart was a knowing and voluntary participant in War Crimes and Crimes against Humanity which were committed in the occupation of the Netherlands.

Conclusion

The Tribunal finds that Seyss-Inquart is guilty under Counts Two, Three, and Four. Seyss-Inquart is not guilty on Count One.

SPEER

Speer is indicted under all four Counts. Speer joined the Nazi Party in 1932. In 1934 he was made Hitler's architect and became a close personal confidant. Shortly thereafter he was made a department head in the German Labor Front and the official in charge of capital construction on the staff of the deputy to the Führer, positions which he held through 1941. On 15 February 1942, after the death of Fritz Todt, Speer was appointed Chief of the Organization Todt and Reich Minister for Armaments and Munitions (after 2 September 1943, for Armaments and War Production). The positions were supplemented by his appointments in March and April 1942 as General Plenipotentiary for Armaments and as a member of the Central Planning Board, both within the Four Year Plan. Speer was a member of the Reichstag from 1941 until the end of the war.

Crimes against Peace

The Tribunal is of opinion that Speer's activities do not amount to initiating, planning, or preparing wars of aggression, or of conspiring to that end. He became the head of the armament industry well after all of the wars had been commenced and were under way. His activities in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage

aggressive war as charged under Count One or waging aggressive war as charged under Count Two.

War Crimes and Crimes against Humanity

The evidence introduced against Speer under Counts Three and Four relates entirely to his participation in the slave labor program. Speer himself had no direct administrative responsibility for this program. Although he had advocated the appointment of a General Plenipotentiary for the Utilization of Labor because he wanted one central authority with whom he could deal on labor matters, he did not obtain administrative control over Sauckel. Sauckel was appointed directly by Hitler, under the decree of 21 March 1942, which provided that he should be directly responsible to Göring, as Plenipotentiary of the Four Year Plan.

As Reich Minister for Armaments and Munitions and General Plenipotentiary for Armaments under the Four Year Plan, Speer had extensive authority over production. His original authority was over construction and production of arms for the OKW. This was progressively expanded to include naval armaments, civilian production and finally, on 1 August 1944, air armament. As the dominant member of the Central Planning Board, which had supreme authority for the scheduling of German production and the allocation and development of raw materials, Speer took the position that the Board had authority to instruct Sauckel to provide laborers for industries under its control and succeeded in sustaining this position over the objection of Sauckel. The practice was developed under which Speer transmitted to Sauckel an estimate of the total number of workers needed. Sauckel obtained the labor and allocated it to the various industries in accordance with instructions supplied by Speer.

Speer knew when he made his demands on Sauckel that they would be supplied by foreign laborers serving under compulsion. He participated in conferences involving the extension of the slave labor program for the purpose of satisfying his demands. He was present at a conference held during 10 and 12 August 1942 with Hitler and Sauckel, at which it was agreed that Sauckel should bring laborers by force from occupied territories where this was necessary to satisfy the labor needs of the industries under Speer's control. Speer also attended a conference in Hitler's headquarters on 4 January 1944, at which the decision was made that Sauckel should obtain "at least 4 million new workers from occupied territories" in order to satisfy the demands for labor made by Speer, although Sauckel indicated that he could do this only with help from Himmler.

Sauckel continually informed Speer and his representatives that foreign laborers were being obtained by force. At a meeting of 1 March 1944 Speer's deputy questioned Sauckel very closely about

his failure to live up to the obligation to supply 4 million workers from occupied territories. In some cases Speer demanded laborers from specific foreign countries. Thus, at the conference of 10-12 August 1942 Sauckel was instructed to supply Speer with "a further million Russian laborers for the German armament industry up to and including October 1942". At a meeting of the Central Planning Board on 22 April 1943 Speer discussed plans to obtain Russian laborers for use in the coal mines, and flatly vetoed the suggestion that this labor deficit should be made up by German labor.

Speer has argued that he advocated the reorganization of the labor program to place a greater emphasis on utilization of German labor in war production in Germany and on the use of labor in occupied countries in local production of consumer goods formerly produced in Germany. Speer took steps in this direction by establishing the so-called "blocked industries" in the occupied territories which were used to produce goods to be shipped to Germany. Employees of these industries were immune from deportation to Germany as slave laborers and any worker who had been ordered to go to Germany could avoid deportation if he went to work for a blocked industry. This system, although somewhat less inhumane than deportation to Germany, was still illegal. The system of blocked industries played only a small part in the over-all slave labor program, although Speer urged its cooperation with the slave labor program, knowing the way in which it was actually being administered. In an official sense, he was its principal beneficiary and he constantly urged its extension.

Speer was also directly involved in the utilization of forced labor, as Chief of the Organization Todt. The Organization Todt functioned principally in the occupied areas on such projects as the Atlantic Wall and the construction of military highways, and Speer has admitted that he relied on compulsory service to keep it adequately staffed. He also used concentration camp labor in the industries under his control. He originally arranged to tap this source of labor for use in small out-of-the-way factories; and later, fearful of Himmler's jurisdictional ambitions, attempted to use as few concentration camp workers as possible.

Speer was also involved in the use of prisoners of war in armament industries but contends that he utilized Soviet prisoners of war only in industries covered by the Geneva Convention.

Speer's position was such that he was not directly concerned with the cruelty in the administration of the slave labor program, although he was aware of its existence. For example, at meetings of the Central Planning Board he was informed that his demands for labor were so large as to necessitate violent methods in recruiting. At a meeting of the Central Planning Board on 30 October 1942, Speer

voiced his opinion that many slave laborers who claimed to be sick were malingerers and stated: "There is nothing to be said against SS and police taking drastic steps and putting those known as slackers into concentration camps." Speer, however, insisted that the slave laborers be given adequate food and working conditions so that they could work efficiently.

In mitigation it must be recognized that Speer's establishment of blocked industries did keep many laborers in their homes and that in the closing stages of the war he was one of the few men who had the courage to tell Hitler that the war was lost and to take steps to prevent the senseless destruction of production facilities, both in occupied territories and in Germany. He carried out his opposition to Hitler's scorched earth program in some of the Western countries and in Germany by deliberately sabotaging it at considerable personal risk.

Conclusion

The Tribunal finds that Speer is not guilty on Counts One and Two, but is guilty under Counts Three and Four.

VON NEURATH

Von Neurath is indicted under all four Counts. He is a professional diplomat who served as German Ambassador to Great Britain from 1930 to 1932. On 2 June 1932 he was appointed Minister of Foreign Affairs in the Von Papen Cabinet, a position which he held under the Cabinets of Von Schleicher and Hitler. Von Neurath resigned as Minister of Foreign Affairs on 4 February 1938, and was made Reich Minister without Portfolio, President of the Secret Cabinet Council, and a member of the Reich Defense Council. On 18 March 1939 he was appointed Reich Protector for Bohemia and Moravia, and served in this capacity until 27 September 1941. He held the formal rank of Obergruppenführer in the SS.

Crimes against Peace

As Minister of Foreign Affairs, Von Neurath advised Hitler in connection with the withdrawal from the Disarmament Conference and the League of Nations on 14 October 1933, the institution of rearmament, the passage on 16 March 1935 of the law for universal military service, and the passage on 21 May 1935 of the secret Reich Defense Law. He was a key figure in the negotiation of the Naval Accord entered into between Germany and England on 18 June 1935. He played an important part in Hitler's decision to reoccupy the Rhineland on 7 March 1936, and predicted that the occupation could be carried through without any reprisals from the French. On 18 May 1936 he told the American Ambassador to France that it

was the policy of the German Government to do nothing in foreign affairs until "the Rhineland had been digested", and that as soon as the fortifications in the Rhineland had been constructed and the countries of central Europe realized that France could not enter Germany at will, "all those countries will begin to feel very differently about their foreign policies and a new constellation will develop".

Von Neurath took part in the Hossbach conference of 5 November 1937. He has testified that he was so shocked by Hitler's statements that he had a heart attack. Shortly thereafter he offered to resign, and his resignation was accepted on 4 February 1938, at the same time that Von Fritsch and Von Blomberg were dismissed. Yet with knowledge of Hitler's aggressive plans he retained a formal relationship with the Nazi regime as Reich Minister without Portfolio, President of the Secret Cabinet Council and a member of the Reich Defense Council. He took charge of the Foreign Office at the time of the occupation of Austria, assured the British Ambassador that this had not been caused by a German ultimatum, and informed the Czechoslovakian Minister that Germany intended to abide by its arbitration convention with Czechoslovakia. Von Neurath participated in the last phase of the negotiations preceding the Munich Pact, but contends that he entered these discussions only to urge Hitler to make every effort to settle the issues by peaceful means.

Criminal Activities in Czechoslovakia

Von Neurath was appointed Reich Protector for Bohemia and Moravia on 18 March 1939. Bohemia and Moravia were occupied by military force. Hacha's consent, obtained as it was by duress, cannot be considered as justifying the occupation. Hitler's decree of 16 March 1939, establishing the Protectorate, stated that this new territory should "belong henceforth to the territory of the German Reich", an assumption that the Republic of Czechoslovakia no longer existed. But it also went on the theory that Bohemia and Moravia retained their sovereignty subject only to the interests of Germany as expressed by the Protectorate. Therefore even if the doctrine of subjugation should be considered to be applicable to territory occupied by aggressive action, the Tribunal does not believe that this Proclamation amounted to an incorporation which was sufficient to bring the doctrine into effect. The occupation of Bohemia and Moravia must therefore be considered a military occupation covered by the rules of warfare. Although Czechoslovakia was not a party to the Hague Convention of 1907, the rules of land warfare expressed in this Convention are declaratory of existing international law and hence are applicable.

As Reich Protector, Von Neurath instituted an administration in Bohemia and Moravia similar to that in effect in Germany. The free press, political parties, and trade unions were abolished. All groups which might serve as opposition were outlawed. Czechoslovakian industry was worked into the structure of German war production, and exploited for the German war effort. Nazi anti-Semitic policies and laws were also introduced. Jews were barred from leading positions in Government and business.

In August 1939 Von Neurath issued a proclamation warning against any acts of sabotage and stating that "the responsibility for all acts of sabotage is attributed not only to individual perpetrators but to the entire Czech population." When the war broke out on 1 September 1939, 8,000 prominent Czechs were arrested by the Security Police in Bohemia and Moravia and put into protective custody. Many of this group died in concentration camps as a result of mistreatment.

In October and November 1939 Czechoslovakian students held a series of demonstrations. As a result, on Hitler's orders, all universities were closed, 1,200 students imprisoned, and the nine leaders of the demonstration shot by Security Police and SD. Von Neurath testified that he was not informed of this action in advance, but it was announced by proclamation over his signature posted on placards throughout the Protectorate, which he claims, however, was done without his authority.

On 31 August 1940 Von Neurath transmitted to Lammers a memorandum which he had prepared dealing with the future of the Protectorate, and a memorandum with his approval prepared by Carl Herman Frank on the same subject. Both dealt with the question of Germanization and proposed that the majority of the Czechs might be assimilated racially into the German Nation. Both advocated the elimination of the Czechoslovakian intelligentsia and other groups which might resist Germanization, Von Neurath's by expulsion, Frank's by expulsion or "special treatment."

Von Neurath has argued that the actual enforcement of the repressive measures was carried out by the Security Police and SD who were under the control of his State Secretary, Carl Herman Frank, who was appointed at the suggestion of Himmler and who, as a Higher SS and Police Leader, reported directly to Himmler. Von Neurath further argues that anti-Semitic measures and those resulting in economic exploitation were put into effect in the Protectorate as the result of policies decided upon in the Reich. However this may be, he served as the chief German official in the Protectorate when the administration of this territory played an important role in the wars of aggression which Germany was waging in the

East knowing that War Crimes and Crimes against Humanity were being committed under his authority.

In mitigation it must be remembered that Von Neurath did intervene with the Security Police and SD for the release of many of the Czechoslovaks who were arrested on 1 September 1939, and for the release of students arrested later in the fall. On 23 September 1941 he was summoned before Hitler and told that he was not being harsh enough and that Heydrich was being sent to the Protectorate to combat the Czechoslovakian resistance groups. Von Neurath attempted to dissuade Hitler from sending Heydrich, but in vain, and when he was not successful, offered to resign. When his resignation was not accepted he went on leave, on 27 September 1941, and refused to act as Protector after that date. His resignation was formally accepted in August 1943.

Conclusion

The Tribunal finds that Von Neurath is guilty under all four Counts.

FRITZSCHE

Fritzsche is indicted on Counts One, Three, and Four. He was best known as a radio commentator, discussing once a week the events of the day on his own program, "Hans Fritzsche Speaks." He began broadcasting in September 1932; in the same year he was made the head of the Wireless News Service, a Reich Government agency. When, on 1 May 1933, this agency was incorporated by the National Socialists into their Reich Ministry of Popular Enlightenment and Propaganda, Fritzsche became a member of the Nazi Party and went to that Ministry. In December 1938 he became head of the Home Press Division of the Ministry; in October 1942 he was promoted to the rank of Ministerial Director. After serving briefly on the Eastern Front in a propaganda company, he was, in November 1942, made head of the Radio Division of the Propaganda Ministry and Plenipotentiary for the Political Organization of the Greater German Radio.

Crimes against Peace

As head of the Home Press Division Fritzsche supervised the German press of 2,300 daily newspapers. In pursuance of this function he held daily press conferences to deliver the directives of the Propaganda Ministry to these papers. He was, however, subordinate to Dietrich, the Reich Press Chief, who was in turn a subordinate of Goebbels. It was Dietrich who received the directives to the press of Goebbels and other Reich Ministers, and prepared them as instructions, which he then handed to Fritzsche for the press.

From time to time, the "Daily Paroles of the Reich Press Chief", as these instructions were labeled, directed the press to present to the people certain themes, such as the Leadership Principle, the Jewish problem, the problem of living space, or other standard Nazi ideas. A vigorous propaganda campaign was carried out before each major act of aggression. While Fritzsche headed the Home Press Division, he instructed the press how the actions or wars against Bohemia and Moravia, Poland, Yugoslavia, and the Soviet Union should be dealt with. Fritzsche had no control of the formulation of these propaganda policies. He was merely a conduit to the press of the instructions handed him by Dietrich. In February 1939 and before the absorption of Bohemia and Moravia, for instance, he received Dietrich's order to bring to the attention of the press Slovakia's efforts for independence, and the anti-Germanic policies and politics of the existing Prague Government. This order to Dietrich originated in the Foreign Office.

The Radio Division, of which Fritzsche became the head in November 1942, was one of the 12 divisions of the Propaganda Ministry. In the beginning Dietrich and other heads of divisions exerted influence over the policies to be followed by radio. Towards the end of the war, however, Fritzsche became the sole authority within the Ministry for radio activities. In this capacity he formulated and issued daily radio "paroles" to all Reich propaganda offices, according to the general political policies of the Nazi regime, subject to the directives of the Radio-Political Division of the Foreign Office, and the personal supervision of Goebbels.

Fritzsche, with other officials of the Propaganda Ministry, was present at Goebbels' daily staff conferences. Here they were instructed in the news and propaganda policies of the day. After 1943 Fritzsche himself occasionally held these conferences, but only when Goebbels and his State Secretaries were absent. And even then his only function was to transmit the Goebbels' directives relayed to him by telephone.

This is the summary of Fritzsche's positions and influence in the Third Reich. Never did he achieve sufficient stature to attend the planning conferences which led to aggressive war; indeed according to his own uncontradicted testimony he never even had a conversation with Hitler. Nor is there any showing that he was informed of the decisions taken at these conferences. His activities cannot be said to be those which fall within the definition of the common plan to wage aggressive war as already set forth in this Judgment.

War Crimes and Crimes against Humanity

The Prosecution has asserted that Fritzsche incited and encouraged the commission of War Crimes by deliberately falsifying news

to arouse in the German People those passions which led them to the commission of atrocities under Counts Three and Four. His position and official duties were not sufficiently important, however, to infer that he took part in originating or formulating propaganda campaigns.

Excerpts in evidence from his speeches show definite anti-Semitism on his part. He broadcast, for example, that the war had been caused by Jews and said their fate had turned out "as unpleasant as the Führer predicted." But these speeches did not urge persecution or extermination of Jews. There is no evidence that he was aware of their extermination in the East. The evidence moreover shows that he twice attempted to have publication of the anti-Semitic *Der Stürmer* suppressed, though unsuccessfully.

In these broadcasts Fritzsche sometimes spread false news, but it was not proved he knew it to be false. For example, he reported that no German U-boat was in the vicinity of the *Athènia* when it was sunk. This information was untrue; but Fritzsche, having received it from the German Navy, had no reason to believe it was untrue.

It appears that Fritzsche sometimes made strong statements of a propagandistic nature in his broadcasts. But the Tribunal is not prepared to hold that they were intended to incite the German People to commit atrocities on conquered peoples, and he cannot be held to have been a participant in the crimes charged. His aim was rather to arouse popular sentiment in support of Hitler and the German war effort.

Conclusion

The Tribunal finds that Fritzsche is not guilty under this Indictment, and directs that he shall be discharged by the Marshal when the Tribunal presently adjourns.

BORMANN

Bormann is indicted on Counts One, Three, and Four. He joined the National Socialist Party in 1925, was a member of the Staff of the Supreme Command of the SA from 1928 to 1930, was in charge of the Aid Fund of the Party, and was Reichsleiter from 1933 to 1945. From 1933 to 1941 he was Chief of Staff in the Office of the Führer's Deputy and, after the flight of Hess to England, became Head of the Party Chancellery on 12 May 1941. On 12 April 1943 he became Secretary to the Führer. He was political and organizational head of the Volkssturm and a general in the SS.

Crimes against Peace

Bormann in the beginning a minor Nazi, steadily rose to a position of power and, particularly in the closing days, of great

influence over Hitler. He was active in the Party's rise to power and even more so in the consolidation of that power. He devoted much of his time to the persecution of the churches and of the Jews within Germany.

The evidence does not show that Bormann knew of Hitler's plans to prepare, initiate, or wage aggressive wars. He attended none of the important conferences when Hitler revealed piece by piece these plans for aggression. Nor can knowledge be conclusively inferred from the positions he held. It was only when he became head of the Party Chancellery in 1941, and later in 1943 Secretary to the Führer when he attended many of Hitler's conferences, that his positions gave him the necessary access. Under the view stated elsewhere which the Tribunal has taken of the conspiracy to wage aggressive war, there is not sufficient evidence to bring Bormann within the scope of Count One.

War Crimes and Crimes against Humanity

By decree of 29 May 1941 Bormann took over the offices and powers held by Hess; by the decree of 24 January 1942 these powers were extended to give him control over all laws and directives issued by Hitler. He was thus responsible for laws and orders issued thereafter. On 1 December 1942 all Gaue became Reich defense districts, and the Party Gauleiters responsible to Bormann were appointed Reich Defense Commissioners. In effect, this made them the administrators of the entire civilian war effort. This was so not only in Germany, but also in those territories which were incorporated into the Reich from the absorbed and conquered territories.

Through this mechanism Bormann controlled the ruthless exploitations of the subjected populace. His order of 12 August 1942 placed all Party agencies at the disposal of Himmler's program for forced resettlement and denationalization of persons in the occupied countries. Three weeks after the invasion of Russia, he attended the conference of 16 July 1941 at Hitler's field quarters with Göring, Rosenberg, and Keitel; Bormann's reports show that there were discussed and developed detailed plans of enslavement and annihilation of the population of these territories. And on 8 May 1942 he conferred with Hitler and Rosenberg on the forced resettlement of Dutch personnel in Latvia, the extermination program in Russia, and the economic exploitation of the Eastern territories. He was interested in the confiscation of art and other properties in the East. His letter of 11 January 1944 called for the creation of a large scale organization to withdraw commodities from the occupied territories for the bombed-out German populace.

Bormann was extremely active in the persecution of the Jews, not only in Germany but also in the absorbed and conquered coun-

tries. He took part in the discussions which led to the removal of 60,000 Jews from Vienna to Poland in cooperation with the SS and the Gestapo. He signed the decree of 31 May 1941 extending the Nuremberg Laws to the annexed Eastern territories. In an order of 9 October 1942 he declared that the permanent elimination of Jews in Greater German territory could no longer be solved by emigration, but only by applying "ruthless force" in the special camps in the East. On 1 July 1943 he signed an ordinance withdrawing Jews from the protection of the law courts and placing them under the exclusive jurisdiction of Himmler's Gestapo.

Bormann was prominent in the slave labor program. The Party leaders supervised slave labor matters in the respective Gaue, including employment, conditions of work, feeding, and housing. By his circular of 5 May 1943 to the Leadership Corps, distributed down to the level of Ortsgruppenleiter, he issued directions regulating the treatment of foreign workers, pointing out they were subject to SS control on security problems, and ordered the previous mistreatment to cease. A report of 4 September 1942 relating to the transfer of 500,000 female domestic workers from the East to Germany showed that control was to be exercised by Sauckel, Himmler, and Bormann. Sauckel by decree of 8 September directed the Kreisleiter to supervise the distribution and assignment of these female laborers.

Bormann also issued a series of orders to the Party leaders dealing with the treatment of prisoners of war. On 5 November 1941 he prohibited decent burials for Russian prisoners of war. On 25 November 1943 he directed Gauleiter to report cases of lenient treatment of prisoners of war. And on 13 September 1944 he ordered liaison between the Kreisleiter with the camp commandants in determining the use to be made of prisoners of war for forced labor. On 29 January 1943 he transmitted to his leaders OKW instructions allowing the use of firearms, and corporal punishment on recalcitrant prisoners of war, contrary to the Rules of Land Warfare. On 30 September 1944 he signed a decree taking from the OKW jurisdiction over prisoners of war and handing them over to Himmler and the SS.

Bormann is responsible for the lynching of Allied airmen. On 30 May 1944 he prohibited any police action or criminal proceedings against persons who had taken part in the lynching of Allied fliers. This was accompanied by a Goebbels' propaganda campaign inciting the German people to take action of this nature, and the conference of 6 June 1944, where regulations for the application of lynching were discussed.

His Counsel, who has labored under difficulties, was unable to refute this evidence. In the face of these documents, which bear Bormann's signature, it is difficult to see how he could do so even were the defendant present. Counsel has argued that Bormann is

dead and that the Tribunal should not avail itself of Article 12 of the Charter, which gives it the right to take proceedings *in absentia.* But the evidence of death is not conclusive, and the Tribunal, as previously stated, is determined to try him *in absentia.* If Bormann is not dead and is later apprehended, the Control Council for Germany may, under Article 29 of the Charter, consider any facts in mitigation, and alter or reduce his sentence, if deemed proper.

Conclusion

The Tribunal finds that Bormann is not guilty on Count One, but is guilty on Counts Three and Four.

1 October 1946

/s/ GEOFFREY LAWRENCE President	/s/ NORMAN BIRKETT
/s/ FRANCIS BIDDLE	/s/ JOHN J. PARKER
/s/ H. DONNEDIEU DE VABRES	/s/ R. FALCO
/s/ NIKITCHENKO	/s/ A. VOLCHKOV

DISSENTING OPINION OF THE SOVIET MEMBER OF THE INTERNATIONAL MILITARY TRIBUNAL

The Tribunal decided:

a) To acquit the Defendants Hjalmar Schacht, Franz von Papen, and Hans Fritzsche;

b) To sentence the Defendant Rudolf Hess to life imprisonment;

c) Not to declare criminal the following organizations: the Reichscabinet, General Staff, and OKW.

In this respect I can not agree with the decision adopted by the Tribunal as it does not correspond to the facts of the case and is based on incorrect conclusions.

I. *The Unfounded Acquittal of Defendant Schacht*

The evidence, submitted to the Tribunal in the case of Schacht, confirms the following facts:

a) Schacht established contact with Göring in December 1930 and with Hitler at the beginning of 1931. He subsequently established contact between the leadership of the Nazi Party and the foremost representatives of the German industrial and financial circles. This, in particular, is confirmed by the testimony of Witness Severing (Transcript, Afternoon Session, 23 May 1946; USA-615).

b) In July 1932 Schacht demanded that Von Papen resign his post as Reich Chancellor in favor of Hitler. This fact is confirmed by Von Papen's testimony at the preliminary interrogation and by Schacht's own testimony in Court (Transcript, Afternoon Session, 2 May 1946).

c) In November 1932 Schacht collected signatures of German industrialists, urging them to come out for Hitler's appointment as Reich Chancellor. On 12 November 1932 Schacht wrote to Hitler:

> "I have no doubt that the way we are directing the course of events can only lead to your appointment as Reich Chancellor. We are trying to secure a large number of signatures among the industrial circles to ensure your appointment to this post." (EC-456, USA-773; PS-3901, USA-837)

d) In February 1933 Schacht organized the financing of the preelection campaign conducted by the Nazi Party, and demanded at the conference of Hitler and Göring with the industrialists that the latter provide three million marks (D-203). Schacht admitted in Court that he had pointed out the necessity for providing the Nazi leaders with this sum (Transcript, Afternoon Session, 3 May 1946), while the Defendant Funk and the former member of the management of "I. G. Farbenindustrie" Schnitzler, who were present at this

conference, both confirmed that it was Schacht who was the initiator of the financing of the pre-election campaign (Transcript, 4 July 1946; EC-439, USA-618).

e) Utilizing his prestige, Schacht also repeatedly admitted in his public statements that he asked for the support in the elections of both the Nazi Party and of Hitler (USA-615; USA-616; Transcript, Afternoon Session, 2 May 1946).

On 29 August 1932, Schacht wrote to Hitler: "No matter where my activities lead me in the near future, even if some day you see me imprisoned in a fortress, you can always depend on me as your loyal aide" (EC-457, USA-619).

Thus, Schacht consciously and deliberately supported the Nazi Party and actively aided in the seizure of power in Germany by the Fascists. Even prior to his appointment as Plenipotentiary for War Economy, and immediately after the seizure of power by the Nazis, Schacht led in planning and developing the German armaments, as follows:

a) On 17 March 1933, Schacht was appointed President of the Reichsbank (PS-3021, USA-11), and as he himself stated in a speech before his Reichsbank colleagues on 21 March 1938, the Reichsbank under his management was "none other than a National Socialist institution" (Transcript, Afternoon Session, 3 May 1946).

b) In August 1934, Schacht was appointed Reich Minister of Economy (PS-3021, USA-11). His Ministry "was given the task of carrying out the economic preparation for war" (EC-128, USA-623). A special decree granted Schacht, in his capacity of Reich Minister of Economy, unlimited authority in the field of economy *(Reichsgesetzblatt,* 1934, Part I, p. 565).

c) Making use of these powers in 1934 Schacht launched upon the execution of the "new program" developed by him *(Reichsgesetzblatt, 1934,* Part 1, p. 826), and, as Schacht himself noted in his speech of 29 November 1938, this organization played a tremendous part in the course of Germany's rearmament (EC-611, USA-662).

d) For the purpose of the most effective execution of this "new program" Schacht used the property and means of those political enemies of the Nazi regime, who either became the victims of terror or were forced to emigrate (Schacht's note to Hitler of 3 May 1939; PS-1168, USA-37).

Schacht used swindler's tactics and coercion in an effort to acquire raw material and foreign currency for armaments (Affidavit of Vice-President of the Reichsbank, Puhl; EC-437, USA-624).

e) During the first days of his association with the Reichsbank, Schacht issued a series of decrees (27 October 1933, 23 March 1934,

19 February 1935), which in the long run helped realize the broad program of the financing of armaments, developed by him, and with the aid of which, as he testified, he "had found the way to finance the rearmament program."

In his speech in Leipzig on 4 March 1935, Schacht, while summing up his preceding economic and financial activities, announced ". . . everything that I say and do has the Führer's full agreement and I shall not do or say anything which is not approved by the Führer" (Transcript, Afternoon Session, 3 May 1946).

Having become the Plenipotentiary General for War Economy, Schacht unified under himself the leadership of the entire German economy and through his efforts the establishment of the Hitlerite war machine was accomplished.

a) The secret law of 21 May 1935, which appointed Schacht the Plenipotentiary General for War Economy, states as follows:

> "The task of the Plenipotentiary General for War Economy is to place all the economic resources in the service of warfare. The Plenipotentiary General for War Economy within the framework of his functions is given the right to issue legal orders, deviating from the existing laws. He is the responsible head for financing wars through the Reich Ministry and the Reichsbank" (PS-2261, USA-24).

b) Schacht financed German armaments through the Mefo system of promissory notes, which was a swindling venture on a national scale that has no precedent, and the success of which was dependent upon the realization of the aggressive plans of the Hitlerites. It was because of this that Schacht set 1942 as the date when the Mefo notes were to mature, and he pointed out in his speech of 29 November 1938 the relation between "the daring credit policy" of the Reichsbank and the aims of the Hitlerite foreign policy (EC-611, USA-622).

c) Having made full use of his plenary powers, Schacht carefully developed and carried out a broad program of economic mobilization which allowed the Hitlerite leaders to wage war at any time considered most favorable. In particular, from the report of Schacht's deputy, Wohltat, "the preparation for mobilization carried out by the Plenipotentiary for War Economy" shows that Schacht provided to the last detail for the system of exploitation of the German economy in war time, all the way from the utilization of industrial enterprises, of raw material resources and manpower down to the distribution of 80,000,000 ration cards (EC-258, USA-625). It is significant that this report was drawn up a month after Hitler's statement at the conference of 5 November 1937, at which Hitler set forth this concrete plan of aggression (PS-386, USA-25).

Summarizing his past activity, Schacht wrote in January 1937: "I worked out the preparation for war in accordance with the principle that the plan of our war economy must be built in peace time in such a way that there will be no necessity for any reorganization in case of war". Schacht confirmed his statement in court (Transcript, Afternoon Session, 2 May 1946).

Schacht consciously and deliberately prepared Germany for war.

d) The former Minister of War Von Blomberg testified that: "Schacht was fully cognizant of the plans for development and increase of the German Armed Forces, since he was constantly informed . . . of all the financing necessary for the development of the German armed forces" (USA-838).

On 31 August 1936, Von Blomberg informed Schacht that: "The establishment of all the Air Force units must be completed by 1 April 1937, and therefore large expenditures must be entailed in 1936 . . ." (PS-1301, USA-123).

In the spring of 1937, Schacht participated in the military exercises in Godesberg (EC-174).

e) In his memorandum to Hitler on 3 May 1935, entitled the "Financing of Rearmament", Schacht wrote: "A speedy fulfillment of the program for rearmament on a mass scale is the basis of German policy, and, therefore, everything else must be subordinate to this task; the completion of this task, the achievement of this purpose must meet no obstacles . . ." (PS-1168, USA-37).

In his speech on 29 November 1938, Schacht announced that Reichsbank's credit policy made it possible for Germany to create an "unsurpassed machine, and, in turn, this war machine made possible the realization of the aims of our policy" (EC-611, USA-622).

One must exclude the supposition that Schacht was not informed as to what purposes these weapons were to serve since he could not but take into consideration their unprecedented scale and an obvious preference for offensive types of weapons (heavy tanks, bombers, and so on). Besides, Schacht knew perfectly well that not a single country intended to wage war on Germany nor had it any reasons to do so.

a) Schacht utilized the military might growing under his direction to back Germany's territorial demands which grew in proportion to the increase in armaments.

Schacht testified in Court that "at first he confined himself (in his demands) to the colonies which had once belonged to Germany" (Transcript, Morning Session, 3 May 1946).

In September 1934, during his talk with the American Ambassador Dodd, Schacht pointed out that he desired annexation if pos-

sible without war, but through war, if the United States would stay out of it (EC-461, USA-58).

In 1935, Schacht announced to the American Consul Fuller: "Colonies are essential to Germany. If it is possible, we shall acquire them through negotiations; if not, we shall seize them." (EC-450, USA-629)

Schacht admitted in Court that military pressure put upon Czechoslovakia was "in some measure the result and the fruit of his labor" (Transcript, Morning Session, 3 May 1946).

b) Schacht personally participated in the plunder of private and State property of the countries which became victims of Hitlerite aggressions.

The minutes of the conference of the Military-Economic Staff on 11 March 1938, in which Schacht participated, state that those present were given Hitler's latest directives about the invasion of Austria. Further, the minutes state: "After this, at the suggestion of Schacht, it was decided that . . . all the financial accounting will be made in Reichsmarks at the rate of exchange: two schillings for one Reichsmark" (EC-421, USA-645).

Schacht admitted in Court that he personally was in charge of the seizure of the Czechoslovak National Bank after the occupation of Czechoslovakia (Transcript, Morning Session, 3 May 1946).

c) At the beginning of 1940, Schacht offered Hitler his services for negotiations with the United States in regard to the discontinuance of aid to England and he informed Göring of his offer (PS-3700; USA-780).

d) Schacht considered it his duty to greet and congratulate Hitler publicly after the signing of armistice with France, although Schacht, better than anyone else, understood the usurpatory nature of the armistice (German Documentary Film, USA-635).

e) In his letter to Funk on 17 October 1941, Schacht suggested a more effective exploitation of occupied territory. In this case, too, Schacht acted on his own initiative (EC-504; USA-830).

Schacht also participated in the persecution of the Jews:

a) He testified in Court that he "agreed to the policy of the persecution of the Jews as a matter of principle (Transcript, Afternoon Session, 2 May 1946) although, he stated, "to a certain extent" it was a matter of conscience which, however, "was not serious enough to bring about a break" between him and the Nazis (Transcript, Afternoon Session, 2 May 1946; USA-616).

b) In his capacity of Minister of Economy, Schacht signed a series of decrees, in accordance with which the property of the Jews in Germany was subject to plunder with impunity (USA-832; USA-616).

Schacht confirmed in Court the fact that he had signed a series of anti-Semitic decrees (Transcript, Afternoon Session, 2 May 1946).

As to the reasons for Schacht's resignation from the post of the Minister of Economy and the Plenipotentiary General for War Economy in November 1937, and also from the post of the President of the Reichsbank on 20 November 1939, and finally from the post of the Minister without Portfolio in January 1943, the evidence submitted establishes the following:

a) The reason is not Schacht's disagreement with the economic preparation for aggressive wars.

Three weeks before leaving the Ministry of Economy and the post of Plenipotentiary General for War Economy, Schacht wrote to Göring: ". . . I also don't consider that my opinion can differ from yours on economic policy . . ." (EC-497, USA-775).

In his reply Göring states:

"... You promised me your support and collaboration .... You have repeated this promise many times, even after differences of opinion began to creep up between us." (EC-493, USA-642).

Schacht testified in Court that Göring and he only "differed in matters of procedure" (Transcript, Morning Session, 3 May 1946).

In the preliminary examination Göring testified that Schacht's leaving the Reichsbank "had no relation to the program of rearmament" (USA-648).

The vice-president of the Reichsbank, Puhl, confirmed that Schacht's resignation from the Reichsbank can be explained by "his desire to extricate himself from a dangerous situation" which developed as the result of Schacht's own crooked financial operations (EC-438, USA-646).

b) The reason is not Schacht's disapproval of mass terror conducted by the Hitlerites.

The witness for the Defense, Gisevius, testified that he constantly informed Schacht of the criminal actions of the Gestapo, created by Göring, and that nevertheless, right up to the end of 1936, Schacht looked for "Göring's support" (Transcript, Morning Session, 24 April 1946).

In his letter to Von Blomberg on 24 December 1935, Schacht suggested that the Gestapo apply "more cautious methods" since the open terror of the Gestapo "hinders the objectives of the armament" (Transcript, Afternoon Session, 2 May 1946).

On 30 January 1937, Schacht was awarded a golden Party insignia by Hitler (EC-500; Transcript, Afternoon Session, 2 May 1946). As stated in an official German publication, "he was able to be of greater help to the Party than if he were actually a member of the Party" (EC-460, USA-617).

Only in 1943, having understood earlier than many other Germans, the inevitability of the failure of the Hitlerite regime, did Schacht establish contact with the opposition circles, however, doing nothing to help depose this regime. Therefore, it was not by chance that having found out these connections of Schacht, Hitler still spared Schacht's life.

It is thus indisputably established that:

a) Schacht actively assisted in the seizure of power by the Nazis;

b) During a period of 12 years Schacht closely collaborated with Hitler;

c) Schacht provided the economic and financial basis for the creation of the Hitlerite military machine;

d) Schacht prepared Germany's economy for the waging of aggressive wars;

e) Schacht participated in the persecution of Jews and in the plunder of territories occupied by the Germans.

Therefore, Schacht's leading part in the preparation and execution of the common criminal plan is proved.

The decision to acquit Schacht is in obvious contradiction with existing evidence.

II. *The Unfounded Acquittal of Defendant Von Papen.*

The verdict does not dispute the fact that Von Papen prepared the way for Hitler's appointment to the post of the Reich Chancellor and that he actively helped the Nazis in their seizure of power.

In a speech of November 1933, Von Papen said the following on the subject:

". . . just as I at the time of taking over the Chancellorship (this was in 1932) have advocated to pave the way to power for the young fighting liberation movement, just as I on 30 January was selected by a gracious fate to put the hands of our Chancellor and Führer into the hands of our beloved Field Marshal, so do I today again feel the obligation to say to the German People and all those who have kept confidence in me:

"The kind Lord has blessed Germany by giving it in times of deep distress a leader . . ." (PS-3375).

It was Von Papen who revoked Bruning's order dissolving the SS and the SA, thus allowing the Nazis to realize their program of mass terror (D-631).

Again it was the defendant who, by the application of brute force, did away with the Social Democrat Government of Braun and

Severing (Severing's Testimony, Transcript, Afternoon Session, 14 June 1946).

On 4 January 1933, Von Papen had a conference with Hitler, Hess, and Himmler (D-632).

Von Papen participated in the purge of the State machinery of all personnel considered unreliable from the Nazi point of view; *on 21 March 1933, he signed a decree creating special political tribunals;* he had also signed an order granting amnesty to criminals whose crimes were committed in the course of the "national revolution"; he participated in drafting the text of the order "insuring Party and State unity"; and so on.

Subsequently Von Papen faithfully served the Hitler regime.

After the Putsch of 1934, *Von Papen ordered his subordinate Tschirschky to appear in the Gestapo,* knowing full well what awaited him there (D-684).

Von Papen helped to keep the bloody murder secret from public opinion (D-717; D-718).

The defendant played a tremendous role in helping Nazis to take possession of Austria.

Three weeks after the assassination of Dollfuss, on 26 July 1934, Hitler told Von Papen that he was being appointed Minister to Vienna, especially noting in a letter: "You have been and continue to be in possession of my fullest and most unlimited trust . . ." (PS-2799).

In this connection it is impossible to ignore the testimony of the American Ambassador Messersmith who quoted Von Papen as saying that "the seizure of Austria is only the first step" and that he, Von Papen, was in Austria for the purpose of "further weakening the Austrian Government" (USA-57).

The defendant was Hitler's chief advisor in effecting plans for the seizure of Austria. It was he who proposed several tactical maneuvers to quiet the vigilance of world opinion on the one hand, and allow Germany to conclude her war preparations, on the other.

This follows indisputably from Von Papen's statement to th Austrian Minister Berger-Waldeneck (PS-1760), from the report Gauleiter Reuner of 6 July 1939 (USA-61), from Von Papen's rep to Hitler of 21 August 1936 (D-706), from Von Papen's report Hitler of 1 September 1936 (PS-2246, USA-67), and from a se of other documents which had been submitted in evidence.

Von Papen played this game until the issuance of the order alerting the German Armed Forces for moving into Austria participated in arranging the conference between Hitler and Schu nigg of 12 February 1938 (USA-69).

It was Von Papen who in a letter to Hitler emphati mended that financial aid be given the Nazi organizati

known as the "Freedom Union", specifically for "its fight against the Jewry" (PS-2830).

Indisputable appears the fact of the Nazi seizure of Austria and of Von Papen's participation in this act of aggression. After the occupation of Austria, Hitler rewarded Von Papen with the golden insignia of the Nazi Party (D-632).

Neither is it possible to ignore Von Papen's role as agent provocateur when in his capacity of diplomat he was the German Ambassador to Turkey — whenever evaluation of his activity there is made.

The post of Ambassador to Turkey was at the time of considerable importance in helping the Nazis realize their aggressive plans.

The official Nazi biographer wrote about Von Papen as follows: "Shortly (after the occupation of Austria) the Führer had need of Von Papen's services again and on 18 April 1939, he therefore appointed him German Ambassador in Ankara" (D-632).

It should also be noted that for his Turkish activities, Hitler rewarded Von Papen with the Knight's Cross of the War Merit Order with Swords (D-632).

Thus, evidence submitted establishes beyond doubt that:

a) Von Papen actively aided the Nazis in their seizure of power.

b) Von Papen used both his efforts and his connections to solidify and strengthen the Hitlerian terroristic regime in Germany.

c) Von Papen actively participated in the Nazi aggression against Austria culminating in its occupation.

d) Von Papen faithfully served Hitler up to the very end, aiding the Nazi plans of aggression both with his ability and his diplomatic skill.

It therefore follows that Defendant Von Papen bears considerable responsibility for the crimes of the Hitlerite regime.

For these reasons I cannot consent to the acquittal of Defendant Von Papen.

III. *The Unfounded Acquittal of Defendant Fritzsche*

The acquittal of Defendant Hans Fritzsche follows from the soning that Fritzsche, allegedly, had not reached in Germany the ial position making him responsible for the criminal actions of Hitler regime and that his own personal activity in this respect ot be considered criminal. The verdict characterizes him as a dary figure carrying out the directives of Goebbels and Ribbentrop, and of the Reich Press Director Dietrich.

rdict does not take into consideration or mention the fact Fritzsche who until 1942 was the director *de facto* of the d that, according to himself, subsequent to 1942 he

became the "commander-in-chief of the German radio" (Transcript, Morning Session, 23 January 1946).

For the correct definition of the role of Defendant Hans Fritzsche it is necessary, firstly, to keep clearly in mind the importance attached by Hitler and his closest associates (as Göring, for example) to propaganda in general and to radio propaganda in particular. This was considered one of the most important and essential factors in the success of conducting an aggressive war.

In the Germany of Hitler, propaganda was invariably a factor in preparing and conducting acts of aggression and in training the German populace to accept obediently the criminal enterprises of German fascism.

The aims of these enterprises were served by a huge and well centralized propaganda machinery. With the help of the police controls and of a system of censorship it was possible to do away altogether with the freedom of press and of speech.

The basic method of the Nazi propagandistic activity lay in the false presentation of facts. This is stated quite frankly in Hitler's *Mein Kampf:* "With the help of a skilful and continuous application of propaganda it is possible to make the people conceive even of heaven as hell and also make them consider heavenly the most miserly existence" (USA-276).

The dissemination of provocative lies and the systematic deception of public opinion were as necessary to the Hitlerites for the realization of their plans as were the production of armaments and the drafting of military plans. Without propaganda, founded on the total eclipse of the freedom of press and of speech, it would not have been possible for German fascism to realize its aggressive intentions, to lay the groundwork and then to put to practice the War Crimes and the Crimes against Humanity.

In the propaganda system of the Hitler State it was the daily press and the radio that were the most important weapons.

In his court testimony, Defendant Göring named three factors as essential in the successful conduct of modern war according to the Nazi concept, namely, (1) the military operations of the armed forces, (2) economic warfare, (3) propaganda. With reference to the latter he said:

> "For what great importance the war of propaganda had, enemy propaganda which extended by way of radio far into the hinterland, no one has experienced more strongly than Germany" (Transcript, Afternoon Session, 15 March 1946).

With such concepts in ascendance it is impossible to suppose that the supreme rulers of the Reich would appoint to the post of the Director of Radio Propaganda who supervised radio activity of all

the broadcasting companies and directed their propagandistic content—a man they considered a secondary figure.

The point of view of the verdict contradicts both the evidence submitted and the actual state of affairs.

Beginning with 1942 and into 1945 Fritzsche was not only Chief of the Radio Department of the Reich Ministry of Propaganda but also "Plenipotentiary for the Political Organization of Radio in Greater Germany". This circumstance is fully proven by the sworn affidavit of Fritzsche himself (PS-3469, USA-721). It thus follows that not at all was Fritzsche merely "one of the 12 departmental chiefs in the Ministry of Propaganda" who acquired responsibility for all radio propaganda only toward the end of the war, as the verdict asserts.

Fritzsche was the political director of the German radio up and into 1945, i. e., up to the moment of German defeat and capitulation. For this reason it is Fritzsche who bears responsibility for the false and provocative broadcasts of the German radio during the years of the war.

As Chief of the Press Section inside Germany it was also Fritzsche who was responsible for the activity of the German daily press consisting of 2,300 newspapers. It was Fritzsche who created and perfected the Information Section winning from the Reich Government for the purpose an increase in the subsidy granted the newspapers from 400,000 to 4,000,000 marks. Subsequently Fritzsche participated energetically in the development of the propaganda campaigns preparatory to the acts of aggression against Czechoslovakia and Poland. (Transcript, Morning Session, 23 January 1946). A similar active propaganda campaign was conducted by the defendant prior to the attack on Yugoslavia as he himself admitted on oath in Court (Transcript, Morning Session, 23 January 1946).

Fritzsche was informed of the plan to attack the Soviet Union and was made *au courant* of the military intentions at a conference with Rosenberg (PS-1039, USA-146, "Rosenberg's Written Report to Hitler on the Subject of Preliminary Work in Eastern European Questions").

Fritzsche headed the German press campaign falsifying reports of Germany's aggressive war against France, England, Norway, the Soviet Union, the United States, and the other States.

The assertion that Fritzsche was not informed of the War Crimes and the Crimes against Humanity then being perpetrated by the Hitlerites in the occupied regions does not agree with the facts. From Fritzsche's testimony in Court it is obvious that already in May 1942, while in the Propaganda Section of the 6th Army, he was aware of Hitler's decree ordering execution for all Soviet political workers and Soviet intellectuals, the so-called "Commissar Decree" (Transcript, Afternoon Session, 27 June 1946). It is also established that

already at the beginning of hostilities Fritzsche was fully aware of the fact that the Nazis were carrying out their decision to do away with all Jews in Europe. For instance, when commenting on Hitler s statement that "among results of the war there will be the annihilation of the Jewish race in Europe" (Transcript, Afternoon Session, 22 November 1945), Fritzsche stated that: "As the Führer predicted it would occur in the event of war in Europe, the fate of the European Jewry turned out to be quite sad" (Transcript, Morning Session, 23 January 1946). It is further established that the defendant systematically preached the anti-social theory of race hatred and characterized peoples inhabiting countries victimized by aggression as "sub-humans" (Transcript, Afternoon Session, 27 June 1946; Transcript, Morning Session, 28 June 1946).

When the fate of Nazi Germany became clear, Fritzsche came out with energetic support of the Defendant Martin Bormann and of other fanatical Hitler adherents who organized the undercover fascist association, the so-called "Werewolf".

On 7 April 1945, for example, in his last radio address, Fritzsche agitated for all the civilian population of Germany to take active part in the activities of this terroristic Nazi underground organization.

He said:

> "Let no one be surprised to find the civilian population, wearing civilian clothes, still continuing the fight in the regions already occupied and even after occupation has taken place. We shall call this phenomenon "Werewolf" since it will have arisen without any preliminary planning and without a definite organization, out of the very instinct of life." (USSR-496)

In his radio addresses Fritzsche welcomed the German use of the new terror weapons in conducting the war, specifically the use of the "V" rockets. On receiving a plan for the introduction of bacterial warfare he immediately forwarded it to the OKW for acceptance. (USSR-484; Evidence submitted during the Afternoon Session, 28 June 1946)

I consider Fritzsche's responsibility fully proven. His activity had a most basic relation to the preparation and the conduct of aggressive warfare as well as to the other crimes of the Hitler regime.

IV. *Concerning the Sentence of the Defendant Rudolf Hess*

The Judgment of the Tribunal correctly and adequately portrays the outstanding position which Rudolf Hess occupied in the leadership of the Nazi Party and State. He was indeed Hitler's closest

personal confidant and his authority was exceedingly great: In this connection it is sufficient to quote Hitler's decree appointing Hess as his deputy: "I hereby appoint Hess as my deputy and give him full power to make decisions in my name on all questions of Party leadership" (Transcript, Afternoon Session, 7 February 1946).

But the authority of Hess was not only confined to questions of Party leadership.

The official NSDAP publication *National Socialist Year Book for 1941* states that:

> "In addition to the duties of Party leadership, the deputy of the Führer has far-reaching powers in the field of the State. These are: First—participation in national and state legislation, including the preparation of the Führer's order. The deputy of the Führer in this way validates the conception of the Party . . . Second—approval of the deputy of the Führer of proposed appointments for official and labor service leaders. Third—securing the influence of the Party over the self-government of the municipal units." (USA-255, PS-3163)

Hess was an active supporter of Hitler's aggressive policy. The Crimes against Peace committed by him are dealt with in sufficient detail in the Judgment. The mission undertaken by Hess in flying to England should be considered as the last of these crimes, as it was undertaken in the hope of facilitating the realization of aggression against the Soviet Union by temporarily restraining England from fighting.

The failure of this mission led to Hess's isolation and he took no direct part in the planning and commission of subsequent crimes of the Hitler regime. There can be no doubt, however, that Hess did everything possible for the preparation of these crimes.

Hess, together with Himmler, occupied the role of creator of the SS police organizations of German fascism which afterwards committed the most ruthless Crimes against Humanity. The defendant clearly pointed out the "special tasks" which faced the SS formations in occupied territories.

When the Waffen SS was being formed Hess issued a special order through the Party Chancellery which made aiding the conscription of Party members into these organizations by all means compulsory for Party organs. He outlined the tasks set before the Waffen SS as follows:

"The units of the Waffen SS composed of National Socialists are more suitable than other armed units *for the specific tasks to be solved in the occupied Eastern territories* due to the intensive training in regard to questions of race and nationality" (GB-267, PS-3245).

As early as 1934 the defendant initiated a proposal that the so-called SD under the Reichsführer SS (Security Service) be given

extraordinary powers and thus become the leading force in Nazi Germany.

On 9 June 1934 Hess issued a decree in accordance with which the "Security Service of the Reichsführer SS" was declared to be the "sole political news and defense service of the Party" (GB-257).

Thus the defendant played a direct part in the creation and consolidation of the system of special police organs which were being prepared for the commission of crimes in occupied territories.

We find Hess to have always been an advocate of the man-hating "master race" theory. In a speech made on 16 January 1937 while speaking of the education of the German Nation, Hess pointed out: *"Thus, they are being educated to put Germans above the subjects of a foreign nation,* regardless of their positions or their origin" (GB-253, PS-3124).

Hess signed the so-called "Law for the Protection of Blood and Honor" on 15 September 1935 (USA-200, PS-3179). The body of this law states that "the Führer's deputy is authorized to issue all necessary decrees and directives" for the practical realization of the "Nuremberg decrees".

On 14 November 1935, Hess issued an ordinance under the Reich citizenship law in accordance with which the Jews were denied the right to vote at elections or hold public office (GB-258, PS-1417).

On 20 May 1938 a decree signed by Hess extended the Nuremberg laws to Austria (GB-259, PS-2124).

On 12 October 1939 Hess signed a decree creating the administration of Polish occupied territories (*Reichsgesetzblatt,* No. 210, 1939, p. 2077). Article 2 of this decree gave the Defendant Frank the power of dictator.

There is sufficiently convincing evidence showing that this defendant did not limit himself to this general directive which introduced into the occupied Polish territories a regime of unbridled terror. As is shown in the letter of the Reichsminister of Justice to the Chief of the Reich Chancellery dated 17 April 1941, Hess was the initiator in the formation of special "penal laws" for Poles and Jews in occupied Eastern territories. The role of this defendant in the drawing up of these "laws" is characterized by the Minister of Justice in the following words:

> "In accordance with the opinion of the Führer's deputy I started from the point of view that the Pole is less susceptible to the infliction of ordinary punishment.... Under these new kinds of punishment, prisoners are to be lodged outside prisons in camps and are to be forced to do heavy and heaviest labor.... The introduction of corporal punishment which the deputy of the Führer has brought up for discussion has not

been included in the draft. I can not agree to this type of punishment.... The procedure for enforcing prosecution has been abrogated, for it seemed intolerable that Poles or Jews should be able to instigate a public indictment. Poles and Jews have also been deprived of the right to prosecute in their own names or join the public prosecution in an action.... From the very beginning it was intended to intensify special treatment in case of need: When this necessity became actual a supplementary decree was issued to which the Führer's deputy refers to in his letter...." (GB-268, R-96)

Thus, there can be no doubt that Hess together with the other major war criminals is guilty of Crimes against Humanity.

Taking into consideration that among political leaders of Hitlerite Germany Hess was third in significance and played a decisive role in the crimes of the Nazi regime, I consider the only justified sentence in his case can be death.

V. *Incorrect Judgment with regard to the Reich Cabinet*

The Prosecution has posed before the Tribunal the question of declaring the Reich Cabinet a criminal organization. The verdict rejects the claim of the Prosecution, unfoundedly refusing to declare the Hitler Government a criminal organization.

With such a decision I cannot agree.

The Tribunal considers it proven that the Hitlerites have committed innumerable and monstrous crimes.

The Tribunal also considers it proven that these crimes were as a rule committed intentionally and on an organized scale, according to previously prepared plans and directives ("Plan Barbarossa", "Night and Fog", "Bullet", etc.).

The Tribunal has declared criminal several of the Nazi mass organizations founded for the realization and putting into practice the plans of the Hitler Government.

In view of this it appears particularly untenable and rationally incorrect to refuse to declare the Reich Cabinet the directing organ of the State with a direct and active role in the working out of the criminal enterprises, a criminal organization. The members of this directing staff had great power, each headed an appropriate Government agency, each participated in preparing and realizing the Nazi program.

In confirmation it is deemed proper to cite several facts:

1. Immediately after the Nazi accession to power — on 24 March 1933 — there was a law passed entitled "The Law of Defense of the

People and the State" whereby the Reich Cabinet, besides the Reichstag, was empowered to enact new laws.

On 26 May 1933 the Reich Government issued a decree ordering the confiscation of the property of all Communist organizations and on 14 June, the same year, it also confiscated the property of the Social Democrat organizations. On 1 December 1933 the Reich Government issued the law "Ensuring Party and State Unity".

Following through its program of liquidating democratic institutions, in 1934 the Government passed a law of the "Reconstruction of the Reich" whereby democratic elections were abolished for both central and local representative bodies. The Reichstag thereby became an institution without functional meaning. (Transcript, Afternoon Session, 22 November 1945)

By the law of 7 April 1933 and others, all Reich Government employees, including judges, ever noted for any anti-Nazi tendencies or ever having belonged to leftist organizations, as well as all Jews, were to be removed from the Government service and replaced by Nazis. In accordance with the "Basic Positions of the German Law on Government Employees" of 26 January 1937, "the inner harmony of the official and the Nazi Party is a necessary presupposition of his appointment to his post . . . Government employees must be the executors of the will of the National Socialist State, directed by the NSDAP." (Defense Document Number 28)

On 1 May 1934 there was created the Ministry of Education instructed to train students in the spirit of militarism, of racial hatred, and in terms of reality thoroughly falsified by Nazi ideology (PS-2078).

Free trade unions were abolished, their property confiscated, and the majority of the leaders jailed.

To suppress even a semblance of resistance the Government created the Gestapo and the concentration camps. Without any trial or even a concrete charge hundreds of thousands of persons were arrested and then done away with merely on a suspicion of an anti-Nazi tendency.

There were issued the so-called "Nuremberg Laws" against the Jews. Hess and Frick, both members of the Reich Government, implemented these by additional decrees.

It was the activity of the Reich Cabinet that brought on the war which took millions of human lives and caused inestimable damage in property and in suffering borne by the many Nations.

On 4 February 1938, Hitler organized the Secret Council of Ministers defining its activity as follows: "To aid me by advice on problems of foreign policies I am creating this Secret Council" (*Reichsgesetzblatt,* 1938, Part I, p. 112, PS-2031). The foreign policy

of the Hitler Government was the policy of aggression. For this reason the members of the Secret Council should be held responsible for this policy. There were attempts in Court to represent the Secret Council as a fictitious organization, never actually functioning. This however is an inadmissible position. It is sufficient to recall Rosenberg's letter to Hitler where the former insistently tried to be appointed member of the Secret Council of Ministers — to appreciate fully the significance of the Council.

Even more important practically in conducting aggressive warfare was the Reich Defense Council headed by Hitler and Göring. The following were members of the Defense Council, as is well known: Hess, Frick, Funk, Keitel, Raeder, Lammers (PS-2194; PS-2018).

Göring characterized the function of the Defense Council and its role in war preparations as follows, during the Court session of 23 June 1939: "The Defense Council of the Reich *was the deciding Reich organ on all questions concerning preparation for war*" (PS-3787, USA-782).

At the same time Göring emphasized the fact that "the meeting of the Defense Council always took place for the purpose of making the most important decisions". From the minutes of these meetings, submitted as evidence by the Prosecution, it is quite clear that the Council made very important decisions indeed. The minutes also show that other Cabinet Ministers sometimes took part in the meetings of the Defense Council alongside the members of the Council when war enterprises and war preparedness were discussed.

For example, the following Cabinet Ministers took part in the meeting of 23 June 1939: of Labor, of Food and Agriculture, of Finance, of Communication, and a number of others, while the minutes of the meeting were sent to all the members of the Cabinet (US-782).

The verdict of the Tribunal justly points out certain peculiarities of the Hitler Government as the directing organ of the State, namely: the absence of regular cabinet meetings, the occasional issuance of laws by the individual Ministers having unusual independence of action, the tremendous personal power of Hitler himself. These peculiarities do not refute but on the contrary further confirm the conclusion that the Hitler Government is not an ordinary rank and file cabinet but a criminal organization.

Certainly Hitler had an unusual measure of personal power but this in no way frees of responsibility the members of his Cabinet who were his convinced followers and the actual executors of his program until and when the day of reckoning arrived.

I consider that there is every reason to declare the Hitler Government a criminal organization.

VI. *Incorrect Judgment with regard to the General Staff and the OKW*

The verdict incorrectly rejects the accusation of criminal activity directed against the General Staff and the OKW.

The rejection of the accusation of criminal activity of the General Staff and of the OKW contradicts both the actual situation and the evidence submitted in the course of the Trial.

It has been established beyond doubt that the Leadership Corps of the Armed Forces of Nazi Germany, together with the SS-Party machine, represented the most important agency in preparing and realizing the Nazi aggressive and man-hating program. This was constantly and forcefully reiterated by the Hitlerites themselves in their official bulletins meant for the officer personnel of the armed forces. In the Nazi Party bulletin called "Politics and the Officer in the III Reich" it is quite clearly stated that the Nazi regime is founded on

> ". . . two pillars: the Party and the Armed Forces. Both are forms of expression of the same philosophy of life . . . the tasks before the Party and the Armed Forces are in an organic relationship to each other and each bears the same responsibility . . . both these agencies depend on each other's success or failure." (PS-4060, USA-928)

This organic inter-relationship between the Nazi Party and the SS on the one hand and the Nazi Armed Forces on the other hand, was particularly evident among the upper circles of military hierarchy which the Indictment groups together under the concept of criminal organization—that is, among the members of the General Staff and the OKW.

The very selection of members of the Supreme Command of the Army in Nazi Germany was based on the criteria of their loyalty to the regime and their readiness not to pursue aggressive militaristic policies but also to fulfill such special directives as related to treatment meted out to prisoners of war and to the civilian populations of occupied territories.

The leaders of the German Armed Forces were not merely officers who reached certain levels of the military hierarchy. They represented, first of all, a closely-knit group which was entrusted with the most secret plans of the Nazi leadership. Evidence submitted to the Tribunal has fully confirmed the contention that the military leaders of Germany justified this trust completely and that they were the convinced followers and ardent executors of Hitler's plans.

It is not accidental that at the head of the Air Force stood the "second man" of the Nazi Reich, namely Göring; that the Commander-in-Chief of the Navy was Dönitz, subsequently designated by Hitler to be the latter's successor; that the command of the Ground

Forces was concentrated in the hands of Keitel who signed the major part of the decrees concerning the execution of the prisoners of war and of the civilians in occupied territories.

Thus the comparisons made with the organization of the supreme commands in Allied countries cannot be considered valid. In a democratic country, not one self-respecting military expert would agree to prepare plans for mass reprisals and merciless killings of prisoners of war side by side with plans of a purely military and strategic character.

Meanwhile it is precisely such matters that occupied the supreme command of the General Staff and of the OKW in Nazi Germany. The commission by them of the heaviest Crimes against Peace, of the War Crimes, and of the Crimes against Humanity is not denied but is particularly emphasized in the verdict of the Tribunal. And yet the commission of these crimes has not brought the logical conclusion.

The verdict states: "They have been a disgrace to the honorable profession of arms. Without their military guidance the aggressive ambitions of Hitler and his fellow Nazis would have been academic and sterile...."

And subsequently:

"Many of these men have made a mockery of the soldier's oath of obedience to military orders. When it suits their defense they say they had to obey; when confronted with Hitler's brutal crimes, which are shown to have been within their general knowledge, they say they disobeyed. The truth is they actively participated in all these crimes, or sat silent and acquiescent, witnessing the commission of crimes on a scale larger and more shocking than the world ever had the misfortune to know. This must be said."

All these assertions in the verdict are correct and are based on numerous and reliable depositions. It remains only incomprehensible why "these hundred or so higher officers" who have caused the world and their own country so much suffering should not be acknowledged a criminal organization.

The verdict advances the following reasons for the decision, reasons quite contradictory to the facts:

a) That the crimes were committed by representatives of the General Staff and of the OKW as private individuals and not as members of a criminal conspiracy.

b) That the General Staff and the OKW were merely weapons in the hands of the conspirators and interpreters or executors of the conspirators' will.

Considerable evidence disputes such conclusions.

1. *The leading representatives of the General Staff and of the OKW, along with a small circle of the higher Hitlerite officials, were called upon by the conspirators to participate in the development and the realization of the plans of aggression, not as passive functionaries, but as active participants in the conspiracy against peace and humanity.*

Without their advice and active cooperation, Hitler could not have solved these problems.

In the majority of cases their opinion was decisive. It is impossible to imagine how the aggressive plans of Hitler's Germany could have been realized had it not been for the full support given him by the leading staff members of the armed forces.

Least of all did Hitler conceal his criminal plans and motivations from the leaders of the High Command.

For instance, while preparing for the attack on Poland, as early as 29 May 1939, at a conference with the high military commanders of the new Reich Chancellery, he stated:

> "For us the matter consists of the expansion of 'Lebensraum' to the East. Thus the question of sparing Poland cannot be considered, and, instead, we have to consider the decision to attack Poland at the first opportunity." (L-79)

Long before the seizure of Czechoslovakia, in a directive of 30 May 1938, Hitler, addressing the representatives of the High Command, cynically stated: "From the military and political point of view, the most favorable time is a lightning attack on the basis of some incident, by which Germany will have been strongly provoked and which will morally justify the military measures to at least part of the world opinion" (PS-388).

Prior to the invasion of Yugoslavia, in a directive dated 27 March 1941, addressing the representatives of the High Command, Hitler wrote: "Even if Yugoslavia declares its loyalty, it must be considered an enemy and must, therefore, be smashed as soon as possible" (PS-1746).

While preparing for the invasion of the U.S.S.R., Hitler invited the representatives of the General Staff and the OKW to help him work out the related plans and directives not at all as simply the military experts.

In the instructions to apply propaganda in the region "Barbarossa", issued by the OKW in June 1941, it is pointed out that: "For the time we should not have propaganda directed at the dismemberment of the Soviet Union" (USSR-477).

As early as 13 May 1941, OKW ordered the troops to use any terrorist measures against the civilian populations of the temporarily occupied regions of the Soviet Union.

And the same order read: "To confirm only such sentences as are in accordance with the political intentions of the High Command." (G-50.)

2. *OKW and the General Staff issued the most brutal decrees and orders for relentless measures against the unarmed peaceful population and the prisoners of war.*

In the decree of special liability to punishment in the region "Barbarossa" while preparing for the attack upon the Soviet Union, the OKW abolished beforehand the jurisdiction of the military courts, granting the right of repressions over the peaceful population to individual officers and soldiers.

It is particularly stated there that:

> "Crimes of hostile civilians are excluded from the jurisdiction of the courts martial, ... Suspected elements must be immediately delivered to the officer. The latter will decide whether they should be shot... it is absolutely forbidden to hold suspects for the purpose of bringing them to trial."

There are also provisions for "the most extreme measures, and, in particular, 'measures for mass violence', if circumstances do not permit the rapid detection of the guilty."

In the same decree of the OKW the guarantee of impunity was assured in advance to the military criminals from the service personnel of the German Army. It states there as follows: "The bringing of suits of actions, committed by officials of the Army and by the service personnel against hostile civilians is not obligatory even in cases where such actions at the same time constitute military crimes or offenses...."

In the course of the war the High Command consistently followed this policy, increasing its terroristic actions with regard to prisoners of war and the peaceful populations of occupied countries.

The OKW directive of 16 September 1941, states: "At the same time, it must be borne in mind that a human life in the countries in question is frequently held to be of no account and that a warning example can be made only by measures of exceptional severity" (PS-389).

Addressing the commanders of the army groups on 23 July 1941, the OKW simply briefed them as follows: "It is not in the demand for additional security detachments, but in the application of appropriate draconic measures that the commanding officers must use to keep order in the regions under their jurisdiction" (PS-459).

The OKW directive of 16 December 1941, states: "The troops . . . have the right and are obliged to apply . . . any measures whatsoever *also against women and children* if this contributes to success . . ." (USSR-16).

Among the most brutal OKW directives concerning the treatment of prisoners of war one must consider the order entitled "Kugel (bullet)". The reasons for resorting to capital punishment for prisoners of war were offenses, which according to international conventions, generally should not carry any punishment (for example, escape from the camp).

Another order, "Nacht und Nebel", states:

> "Penalty for such offenses, consisting of loss of freedom and even a life sentence is a sign of weakness. Only death sentence or measures which entail ignorance of the fate of the guilty by local population will achieve real effectiveness." (L-90, USA-224; Transcript, Afternoon Session, 25 January 1946)

In the course of the present Trial a great deal of evidence of application of the "Kugel" order has been submitted. One of the examples of this kind of crime is the murder of 50 officer-pilots. The fact that this crime was inspired by the High Command cannot be doubted.

OKW also distributed an order for the destfuction of the "commando" units. The original order was submitted to the Court (PS-498, USA-501). According to this order officers and soldiers of the "commando" units had to be shot, except in cases when they were to be questioned, after which they were shot in any case.

These orders were unswervingly carried out by the commanding officers of Army units. In June 1944 Rundstedt, the Commander-in-Chief of the German troops in the West, reported that Hitler's order in regard to "the treatment of the 'commando' groups of the enemy is still being carried out" (PS-531, USA-550).

3. *The High Command, along with the SS and the Police, is guilty of the most brutal police actions in the occupied regions.*

The instructions relating to special regions, issued by OKW on 13 March 1941, contemplated the necessity of synchronizing the activities in occupied territories between the army command and the Reichsführer of the SS. As is seen from the testimony of the chief of the 3d Department of RSHA and who was concurrently chief of the Einsatzgruppe "D", Otto Ohlendorf, and of the chief of the VI Department of RSHA, Walter Schellenberg, in accordance with OKW instructions there was an agreement made between the General Staff and the RSHA about the organization of special "operational groups" of the Security Police and SD - "Einsatzgruppen", assigned to the appropriate army detachments.

Crimes committed by the Einsatzgruppen on the territory of the temporarily occupied regions are countless. The Einsatzgruppen were acting in close contact with the commanding officers of the appropriate army groups.

The following excerpt from the report of Einsatzgruppe "A" is extremely characteristic as evidence:

". . . among our functions as the establishment of personal liaison with the commanding officer both at the front and in the rear. It must be pointed out that the relations with the army were of the best, in some cases very close, almost hearty, as, for instance, the commander of the tank group, Colonel-General Hoppner" (L-180).

4. *The representatives of the High Command acted in all the echelons of the army as members of a criminal group.*

The directives of the OKW and the General Staff, in spite of the manifest violations of international law and customs of warfare, not only did not provoke any protest on the part of the higher staff officers of the command of the various groups of the armies but were inflexibly applied and supplemented by still more cruel orders in the development of such directives.

In this connection it is characteristic to note the directive of Fieldmarshal Von Reichenau, army group commander, addressed to his soldiers: "The soldier in the eastern territories is not only a warrior skilled in the art of warfare but a bearer of a merciless national ideology." And elsewhere, calling for the extermination of the Jews, Von Reichenau wrote: "Thus the soldier must be in full cognizance of the necessity for harsh and just revenge on those sub-humans, the Jews" (USA-556).

As another example the order of Fieldmarshal Von Mannstein addressed to his soldiers can be referred to. On the basis of the "political aims of the war" the Fieldmarshal cynically appealed to his soldiers to wage the war in violation of the "recognized laws of warfare in Europe" (USA-927).

Thus, in the course of the hearing of evidence it has been proven beyond all doubt that the General Staff and the High Command of the Hitlerite Army comprised a highly dangerous criminal organization.

* * * *

I consider it my duty as a Judge to draw up my dissenting opinion concerning those important questions on which I disagree with the decision adopted by the members of the Tribunal.

Soviet Member, International Military Tribunal,
Major General Jurisprudence

/s/ I. T. Nikitchenko

1 October 1946

SENTENCES

In accordance with Article 27 of the Charter, the President of the International Military Tribunal, at its concluding session of 1 October 1946, pronounced the sentence on the defendants convicted on the Indictment:

"Defendant Hermann Wilhelm Göring, on the Counts of the Indictment on which you have been convicted, the International Military Tribunal sentences you to death by hanging.

"Defendant Rudolf Hess, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to imprisonment for life.

"Defendant Joachim von Ribbentrop, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to death by hanging.

"Defendant Wilhelm Keitel, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to death by hanging.

"Defendant Ernst Kaltenbrunner, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to death by hanging.

"Defendant Alfred Rosenberg, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to death by hanging.

"Defendant Hans Frank, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to death by hanging.

"Defendant Wilhelm Frick, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to death by hanging.

"Defendant Julius Streicher, on the Count of the Indictment on which you have been convicted, the Tribunal sentences you to death by hanging.

"Defendant Walter Funk, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to imprisonment for life.

"Defendant Karl Dönitz, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to 10 years' imprisonment.

"Defendant Erich Raeder, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to imprisonment for life.

"Defendant Baldur Von Schirach, on the Count of the Indictment on which you have been convicted, the Tribunal sentences you to 20 years' imprisonment.

"Defendant Fritz Sauckel, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to death by hanging.

"Defendant Alfred Jodl, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to death by hanging.

"Defendant Arthur Seyss-Inquart, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to death by hanging.

"Defendant Albert Speer, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to 20 years' imprisonment.

"Defendant Constantin von Neurath, on the Counts of the Indictment on which you have been convicted, the Tribunal sentences you to 15 years' imprisonment.

"The Tribunal sentences the Defendant Martin Bormann, on the Counts of the Indictment on which he has been convicted, to death by hanging."

Tabulation of Sentences

30th September 1946*

Defendant	Counts on which convicted	Sentence
HERMANN WILHELM GÖRING	1, 2, 3, 4	Death by hanging
RUDOLF HESS	1, 2	Imprisonment for life
JOACHIM VON RIBBENTROP	1, 2, 3, 4	Death by hanging
WILHELM KEITEL	1, 2, 3, 4	Death by hanging
ERNST KALTENBRUNNER	3, 4	Death by hanging
ALFRED ROSENBERG	1, 2, 3, 4	Death by hanging
HANS FRANK	3, 4	Death by hanging
WILHELM FRICK	2, 3, 4	Death by hanging
JULIUS STREICHER	4	Death by hanging
WALTER FUNK	2, 3, 4	Imprisonment for life

* These sentences were read in open court by the President on 1 October 1946.

Defendant	Counts on which convicted	Sentence
HJALMAR SCHACHT	Not guilty	
KARL DÖNITZ	2, 3	Ten years' imprisonment
ERICH RAEDER	1, 2, 3	Imprisonment for life
BALDUR VON SCHIRACH	4	Twenty years' imprisonment
FRITZ SAUCKEL	3, 4	Death by hanging
ALFRED JODL	1, 2, 3, 4	Death by hanging
FRANZ VON PAPEN	Not guilty	
ARTHUR SEYSS-INQUART	2, 3, 4	Death by hanging
ALBERT SPEER	3, 4	Twenty years' imprisonment
CONSTANTIN VON NEURATH	1, 2, 3, 4	Fifteen years' imprisonment
HANS FRITZSCHE	Not guilty	
MARTIN BORMANN	3, 4	Death by hanging

/s/ GEOFFREY LAWRENCE, President

/s/ FRANCIS BIDDLE

/s/ H. DONNEDIEU DE VABRES

/s/ NIKITCHENKO

A TRUE COPY

/s/ JOHN E. RAY
Colonel, FA

Digitized with financial assistance from
Shri Brihad Bhartiya Samaj
on 20 February, 2020